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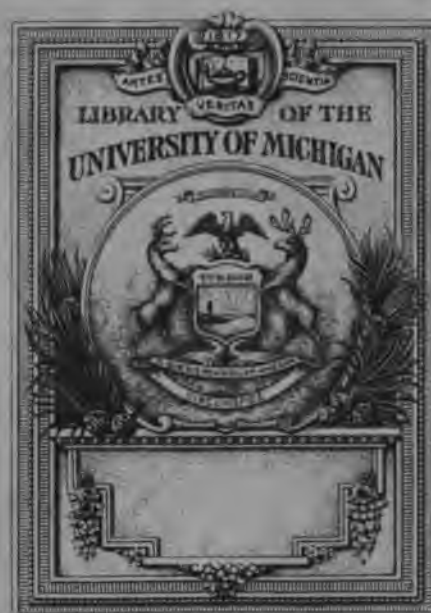
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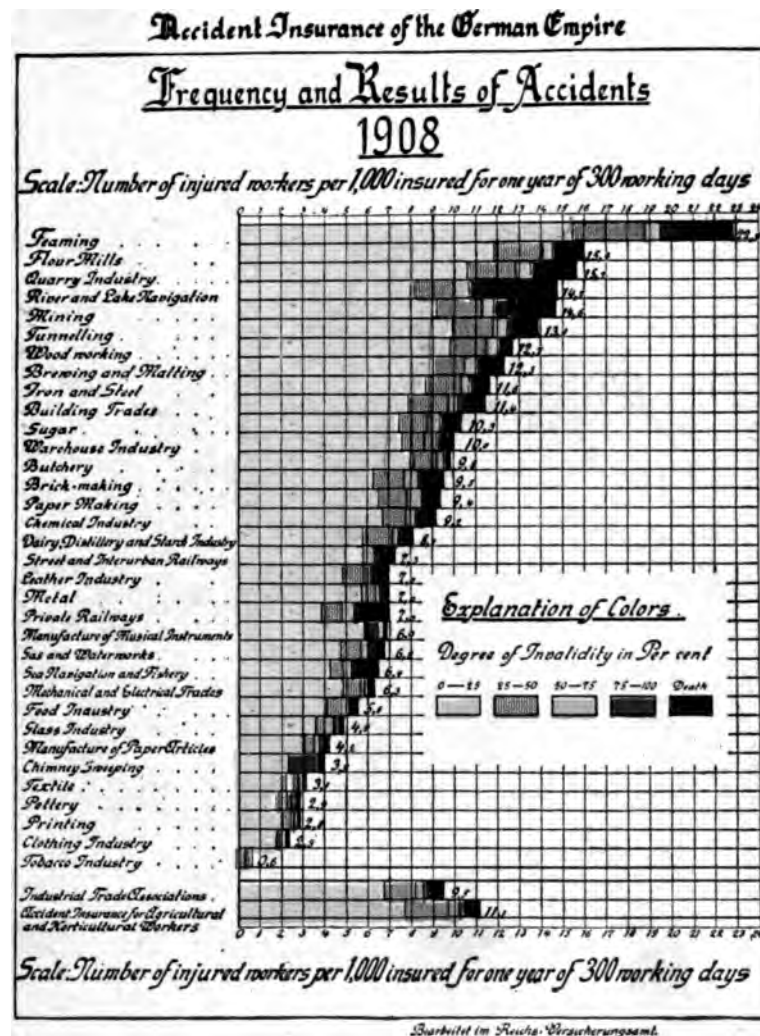
THE GIFT OF
National Association
of Manufacturers





**ACCIDENT PREVENTION
AND RELIEF**

FIGURE 1



ACCIDENT PREVENTION AND RELIEF

AN INVESTIGATION OF THE SUBJECT IN
EUROPE WITH SPECIAL ATTENTION
TO ENGLAND AND GERMANY

TOGETHER WITH

RECOMMENDATIONS FOR ACTION
IN THE
UNITED STATES OF AMERICA



BY

FERD. C. SCHWEDTMAN and JAMES A. EMERY

FOR THE

NATIONAL ASSOCIATION OF MANUFACTURERS

PUBLISHED FOR THE

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Foreword

Employers' liability laws have perhaps been the most fruitful source of worry, dissatisfaction and friction to the employers and wage-workers of the United States. It is freely admitted that looking at the subject from the humane, economic and legal viewpoint our present system can be changed, and ought to be changed.

Employers'
Liability
Laws

Members of the National Association of Manufacturers have, during many years, manifested practical interest in the prevention and relief of industrial accidents. Some have established in their own plants private systems of relief and prevention which have attracted national attention.

Impressed with the continually increasing importance of this subject, its appeal to justice and humanity, and its relation to widely proposed changes in the nature of employers' liability, a special committee was appointed to investigate the whole question from the viewpoint of the progressive employer.

After a thorough inquiry among the employers of the United States, resulting in the receipt of 10,000 replies to the Committee's interrogation sheet, a report was placed before the annual meeting and resolutions were adopted, of which the following is a part.

Resolutions
National
Association of
Manufacturers

“Whereas, the National Association of Manufacturers occupies a leading position in all constructive work for industrial betterment and particularly for harmonious relations between American employers and wage-workers, and

“Whereas, the United States is less advanced than progressive European nations in respect to employers’ liability and industrial accident indemnity to the detriment of the nation, its institutions and its people;

“Be It Resolved, that the present system of determining employers’ liability is unsatisfactory, wasteful, slow in operation and antagonistic to harmonious relations between employers and wage-workers; that an equitable, mutually contributory indemnity system, automatically providing relief for victims of industrial accidents and their dependents, is required to reduce waste, litigation and friction, and to meet the demands of an enlightened nation;

“Be It Further Resolved, that prevention of accidents is of even greater importance than equitable compensation to injured workers.”

European
Investigation

To continue the investigations undertaken, the Association authorized Mr. Ferdinand C. Schwedtman, Chairman of the Committee, and Mr. James A. Emery, Special Counsel, to visit Europe for the purpose of personally observing the operation of the prevailing systems for the compensation and prevention of accidents. Combining, as these two men do, a thorough legal, engineering and business training, together with many years’ experience in organization work, they seemed especially well qualified for this difficult role. The information thus gained

is most gratifying to the officers of the National Association of Manufacturers, and to the men who are acting as members of the Advisory Board.

This volume presents the results of a four months' investigation. It is not a broad treatise on social insurance. It contains practically no data on sickness, invalidity or old age pensions, but deals only with accident prevention and accident relief for injured workers and their dependents. Nor does this volume cover completely the details of the systems of the various European countries. It was found that the systems of England and Germany contain practically all the principles and the experience which is required for the building up of a sound system in the United States. Therefore, this volume describes, with much care, the methods of these two countries, and it throws such light upon various other national systems as seems necessary to convey a reasonably complete understanding of the whole subject.

Progressive
Humane
Viewpoint

A number of excellent books have been written of late on the subject of this investigation, treating it in its economic, legislative and sociological aspects. This volume is such a combination of these viewpoints as seems necessary to cover, in condensed form, the practical needs of the progressive, humane, American employer.

NATIONAL ASSOCIATION OF MANUFACTURERS
OF THE UNITED STATES OF AMERICA.

J. KIRBY, JR., President.

NEW YORK, JANUARY 1911.

INTRODUCTION

Some years ago a man of much learning, who has devoted practically his whole life to a study of social insurance, and who is probably the greatest international authority on the subject, was prevailed upon by his friends to give to the world the fruits of his life's work in book form. The result was, as might be expected, the best work that has ever been written on the subject. Five volumes, each containing about a thousand pages, were given to the world in 1904, and an initial edition of a thousand copies was printed. The work brought to the author additional fame and international decorations, but after seven years one-half of the original edition is still unsold. A few years later this same author published a pamphlet of about 50 pages, this being a short treatise covering the rudiments and general principles of German social insurance. Approximately a million copies were sold.

Present
Interest
In the
Subject

It is quite impossible for us to say all that must be said to the employers of the United States in a pamphlet of 50 pages, but we have made an earnest attempt to condense the information gathered into the smallest possible space. Much of the most important material is shown in charts and diagrams which can be absorbed by the busy man at a glance. The book is written for the

A Book
For the
Busy Man

busy man. Nevertheless, the student and the sociological investigator can find much entirely new information in it. For more detailed statements, minute descriptions and historical information, we refer the reader to several of the excellent works which have been written on the subject from time to time. Among these we recommend especially "Industrial Insurance in the United States," by Professor C. J. Henderson; and "Workingmen's Insurance in Europe," by Frankel and Dawson. Among European works, Dr. Zacher's great work, "Die Arbeiter-versicherung im Auslande," ranks foremost; "Deutsche Arbeiterversicherung" is the name of a splendid recent work published by the German Imperial Insurance Office in honor of the twenty-fifth anniversary celebration of the beginning of German Workers' Accident Compensation Insurance; "Unfallverhuetung und Betriebsicherheit" was published in honor of the same occasion by the Industrial Employers' Associations of Germany, and "25 Jahre Unfallverhuetung" is the title of a most excellent work prepared for the same occasion by the Society of Accident Prevention Engineers. All of these works, and many others, have been consulted liberally in the preparation of our report.

Compilation
of Data
Carefully
Made

Anyone possessing the proper training, knowing where to go, and being armed with the necessary credentials, can secure immense quantities of statistical and other data in European countries. However, it requires a great deal of care and labor to select from among tons of literature the required facts and figures, to condense them, and to translate them into charts and diagrams. Nevertheless, this is the only way in which the man of

affairs can understand the systems of other nations, and help build a scheme for the United States which combines the best features of all countries.

We are gratified at being the happy instruments through which the wisdom of European experts is transmitted to our people. If we succeed (which we hope to do) in furthering through this volume the great cause of progressive, humane industrialism, greater harmony and better understanding between American employer and worker, and higher efficiency of the nation, the credit belongs chiefly to the National Association of Manufacturers, which, under the leadership of its worthy President, Mr. John Kirby, Jr., and his associate officers, has made this investigation possible. From among the splendid men who have assisted us in every possible way, often at great personal sacrifice, and always with unselfish devotion to the great cause, we take pleasure in giving special credit to the following gentlemen:

Acknowledgment of
Valuable
Co-operation

Dr. Paul Kaufmann, President of the German Imperial Insurance Department.

Dr. George Zacher, Director of the German Imperial Statistical Department and one of the greatest international experts on this subject.

Dr. Witowski, Director of the Imperial German Department of Accident Insurance.

Dr. Klein and Prof. Hartmann, Members of the Imperial Insurance Senate.

Dr. Spiecker, President of the Siemens & Halske Co., Berlin, and Chairman of the Central Association of German Employers' Organizations.

Prof. Dr. Alfred Manes, Secretary of the German Society for Insurance Science, under whose supervision much of the statistical and other information contained in this volume was prepared.

Lord Stalbridge, Chairman the London and North Western Railway Company.

Lord Claude Hamilton, Chairman Great Eastern Railway Company.

Sir Charles Scotter, Chairman London and South Western Railway Company.

His Hon. Judge Alfred Henry Ruegg, K. C., The Middle Temple, London.

Mr. S. R. Gladwell, Secretary Iron Trades Employers' Insurance Association.

Mr. Malcolm Delevigne, Home Office, London.

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Mr. J. P. Murray, Toronto, Canada.

We are also under obligations to the following gentlemen who have assisted us in material ways in our investigation:

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H. Weinmann, Nuremberg, Chairman Quarry Owners' Association.

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Karl Koegler, Vienna, Director Accident Insurance Institute for lower Austria.

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F. X. Karsch, Munich, Director Accident Prevention Institute.

E. Ovigstat, Christiania, Director of Norwegian State Insurance.

A. Gutknecht, Berne, Director Swiss Statistical Department.

Ferd. C. Schwedtman,
James A. Emery.

—

Our Sources of Information

Before introducing our readers to the details of our work we want to place before them the story of our investigation. Sound, sensible and practical results can be obtained only by sound, sensible and practical methods. Therefore, our methods must in a measure guarantee the reliability of our conclusions.

We have personally visited England, Germany, France, Austria, Hungary, Belgium, Holland, Switzerland and Italy. We have made a special investigation of the accident prevention institutions which are located in Amsterdam, Paris, Brussels, Berlin, Munich, Vienna, Budapest, Zurich and Milan. Most of our statements regarding conditions in these places are based upon personal observation. We have had exceptional opportunities for meeting the leading men of the various countries—Government officials, jurists, industrialists, physicians, insurance experts and workmen.

Fortune favored our investigation. The 25th anniversary celebration of the existence of the German Accident Insurance System took place during our presence in Berlin. It brought together 1,300 of Germany's most important men—Government officials, employers and scientists, all experts on one phase or another of accident prevention, compensation and insurance. We were the only

Countries
Visited

outsiders present at that celebration, and we are under special obligations to the men who enabled us to include in this volume much of the information prepared for that occasion when it is not three months old in Germany.

**International
Conferences**

In addition to this source of information, we secured much new and important material by attending the International Conference on Social Insurance at the Hague; the International Law Conference in London; and the International Conference on Labor Legislation in Lugano. Each of these conferences dealt with important phases of the subject of accident prevention, compensation and insurance. Our information regarding the countries which we did not visit is based either upon the statements made by representatives of these countries at these meetings, or secured from the best known international experts.

Mr. Emery has given special attention to England and Mr. Schwedtman to Germany, but each of these countries, as well as the others named above, have been visited by both investigators, and every statement, conclusion and recommendation contained in this volume has the approval of both.

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CHAPTER ONE

Outline and Underlying Principles of European Compensation Legislation

ACCIDENT PREVENTION AND RELIEF

CHAPTER I

OUTLINE AND UNDERLYING PRINCIPLES OF EUROPEAN COMPENSATION LEGISLATION

While each nation possesses problems peculiar to itself, some at least are shared by all the tribes of men. Most men are engaged in satisfying the wants of others as a means of providing for their own, and injury in the course of their employment is a distressing but frequently recurring feature of every-day life. To lessen the number and degree of such accidents, to anticipate the economic loss they occasion, as well as to provide equitable remedies for incapacitated victims, presents a task worthy of the best thought of our time.

Task
Worthy
of Best
Thought

We must acknowledge that the Old World gives this serious matter much more attention than the New, and we are told that its action has been stimulated not merely by consideration for the individual, but because the bitterness and waste accompanying accident litigation are perceived to be against the public welfare, whilst the preservation of industrial strength insures the maintenance

Action a
Necessity
but ~~Must~~
be Sound

of national efficiency. In our own country, interest in every phase of this question is rapidly increasing in volume and extent, and we are already being urged through powerful influences to a variety of state and national action, much of which would hurry us along new paths and far from ancient landmarks. But action, however necessary, must be sound rather than sudden. Sweeping reform in procedure, perhaps radical change in existing liability, may be required from broad considerations of justice and expediency, but the livelihood of a nation is no play-field for impulsive experimentalists. Employer and employe are partners in success or failure; whether they like it or not their general fortunes are inseparably associated. You cannot burden the one without taxing the other, and neither class can be permanently benefited at the expense of the other.

Fortunately for us, we can spread before our view the variety of means by which our European neighbors have undertaken during a considerable period of time to provide against the results of injury in employment and to control its cause. It is true that their governmental viewpoint is often unlike our own, but examination of their methods may reveal that many are unfamiliar to our political system rather than inconsistent with it. Their long experience presents much to those seeking instruction from the success and failure of others, but to take profit from the efforts of others, we must understand not merely *what* they do, but *why* they do it. Underlying what we term the compensation legislation of Europe is the philosophy offered to explain and vindicate it.

The starting point of European principle is the stopping point of our system of employers' liability. With us, established fault is the sole basis of recovery in an action for personal injury. An American workman is entitled to compensation for injury suffered in employment only when he can show that he was free from blame and that his hurt resulted from the failure of his employer or his representative to perform some legal duty. Our courts are daily engaged in ascertaining, from the circumstances presented to their notice, what was the degree of duty to which the employer was obligated and the amount of risk which the workman undertook as an incident of his employment. It may and often does happen that the evidence shows no negligence upon the part of either plaintiff or defendant, but that the injury arose from a hazard of the employment for which there is no personal responsibility. How often this occurs in the industries of a given nation will be later considered, but to illustrate the philosophy we are following, some recent English figures will suffice.

Basis of
Employers'
Liability

The Report of the Chief Factory Inspector of Great Britain for the year 1909 relates incidentally that a careful analysis was made of 1644 accidents especially investigated during a period of twelve months: "373 were shown to be attributable to the absence or insufficiency of fencing; 552 were due to the fault of the injured person; 676 were unpreventable, and 43 were marked as doubtful."^(a) The recognition of such conditions gave the originating impulse to a quarter of a century of European social legislation.

Responsibility
for Accidents

(a) Cd. 5191, page XXXIV.

It asks us to realize that the extended use of tools, mechanical implements and appliances in all employments creates an element of inherent hazard unknown to the simpler working conditions of the past, unavoidable by human precaution, continually increasing and daily entering into occupations to which its presence was formerly a stranger. It is presumed that this risk, inherent in the way the world does its work, is not likely to decrease. It is pointed out that our necessities, comforts, the whole complicated structure of material civilization, rest upon the continued operation and extended application of many potentially dangerous forces and instrumentalities, which man has brought into his service, and upon the continued use of which he is dependent.

Principle of
Trade
Hazard

Under these conditions the worker is exposed to and receives injuries arising from neither the fault of himself, his fellows nor his superiors, but where the recovery rests upon proof of negligence, he must bear the economic burden resulting from his disability, or leave it upon the shoulders of his dependents in case of his death. From these considerations, it follows that there are unavoidable as well as avoidable accidents and the former ought to be a burden upon the employment in which they occur instead of the individual to whom they occur.

If we turn to the Germans, who first gave practical application to this principle, we find that, as in other countries which later adopted it, it was a primary but not exclusive consideration in the formulation of a compensatory scheme. Other conditions, not unlike those arousing our present attention, were contributing factors finding later expression as an integral part of the new system.

Dr. Boediker, first president of the German Imperial Insurance Office, relates that when the first Accident Insurance Bill was laid before the Reichstag in 1881, it was accompanied by an explanation and argument in support of its policy, which, referring to the unsatisfactory operation of the existing Employers' Liability Law of 1871, a measure resting upon negligence, said:

"This condition is unbearable. The workman is insufficiently protected by the present law against the dangers of his calling, whilst onerous burdens are placed upon the employer and the relations between employer and employe grow worse instead of better. A condition has been created, the removal of which is desirable in the interest of both classes of the industrial population."

Conditions
Existing in
Germany
1881

Recognizing the principle of trade hazards, but undoubtedly influenced by circumstances of social discontent, Bismarck proposed the policies which have ripened in the vast German system of social insurance. The changes which it wrought in the fundamental principles of employers' liability at the civil law were adopted within twenty years by practically all the states of Continental Europe. But the spirit and practical methods of applying the new German philosophy were not as closely imitated. The essential differences which can arise in the application of a basic principle are strikingly illustrated in the contrast presented by German and English legislation.

The German system, we are told in a special statement made by Dr. Neisser, chief counsel for the League

Principles
of the
German
System

of German Employers' Accident Insurance Associations, rests upon four principles:

1. It proceeds from the assumption that he who creates an enterprise, that peculiar structure of human beings, things and forces, and induces men to labor amongst arms of steel, moving at high speed, establishes a source of danger and becomes responsible for damage resulting from this source. Under this theory *employers' fault need not be proven*. The fact that injury has been caused establishes claim for compensation.

2. Convinced that in many cases the resources of the individual employer would not prove equal to the enormously increased liability, and that therefore the existence of the employer as well as compensation of the injured worker would be jeopardized, *individual* responsibility is eliminated and in its place is put the *collective* responsibility of the industry.

3. To carry out this idea, large industries, and, later on, commerce and crafts, or small industries, were organized into employers' associations grouped according to callings. Thus legally incorporated, self-governing bodies were formed and each and every employer was *compelled by law* to join. The miller must join the Millers' Employers' Association; the teamster, the Employers' Teaming Association, etc. Upon these organizations was placed the responsibility of carrying and administering the accident compensation system, and to this end they were invested with far-reaching legal powers for enforcing their rules, for raising money, etc.

Employers
Compelled
by Law to
Join Organi-
zations of
their Craft

4. Accident prevention being of greater importance and larger social value than compensation, was also placed in the hands of these employers' associations, with the necessary legal authority for enforcement.

The first two principles, we observe, define liability, the third is one of administration, whilst the last links the compensation and prevention of accident.

We have, unfortunately, no such compact authoritative statement of the elements of English legislation, nor can they be so readily epitomized, but we may gather the principle and policy from equally authoritative sources.

Principles and
Policy of
English
Legislation

Mr. Asquith, the present Prime Minister, defined the principle, when outlining his proposals for the Act of 1906: "Where a person, on his own responsibility and for his own profit, sets in motion agencies which create risk for others, he should be civilly responsible for the consequences of what he does."

Mr. Joseph Chamberlain, discussing the Act of 1897, declared the policy on the floor of Parliament in the debate which preceded its adoption:

"This new principle the government would only be justified in applying by some great public human interest. Now, that great public human interest arose in the case of what he might call serious accidents. The sufferers from those accidents were the wounded soldiers of industry whom they had in their minds, and about whom so much was said in discussing this subject—people who were seriously, if not permanently, injured, and prevented, at all events for a considerable period, from following

their ordinary employment. There would be no ground for legislative interference if they could believe that every accident which occurred was an accident whose effects would not last longer than three weeks. Such accidents as those were accidents for which the workman might very properly be expected to make provision himself.”(a)

Purpose of
English
Act of 1897

This statement of the purpose of the British legislation is confirmed by the Departmental Committee appointed in 1904 to investigate the operation of the Act of 1897. It said:

“That the employer should be compelled to make such provision as will, under ordinary circumstances, be sufficient for the actual necessities resulting from the accident. * * * The Act is aimed at affording substantial relief from the consequences of misfortune, but not complete indemnity.” * * *(b)

“We apprehend that the principle of the Act of 1897 is to provide such a degree of relief to dependents in the case of fatal accidents as shall afford reasonable assistance for maintenance.”(c)

Comparison
of the
German and
English
Viewpoints

A brief comparison of the German and English viewpoints shows the legislators of both countries to be alike in recognizing the principle of trade risk. This Great Britain meets by extending personal liability to assure limited compensation for injury. Germany eliminates

(a) Hansard, Vol. 49, 1316 (1897).

(b) Report Departmental Committee, 1904, Ca. 2208, page 13.

(c) Report Departmental Committee, 1904, Ca. 2208, page 37.

personal liability, substituting compulsory mutual insurance against accident, administered by its contributors. Germany unites attack upon the cause, with defense against the effect of injury; the British policy bears no relation to accident prevention. The German administrative principle aims at removing the element of personal antagonism between employer and employe in controversies arising from personal injury; the British disregards it. The British legislature intervenes to relieve dependency; the German to confer a right to assistance in return for contribution. By each, accident is regarded as wholly attributable to trade risk and the personal factor is eliminated.

To make every employer a limited insurer in law is the legal basis of all so-called compensatory legislation. Not every country, however, pursues the final logic of its own law. Some merely extend the personal liability of the employer, others eliminate it, creating, by compulsory contribution, a fund from which compensation is paid. With a few striking exceptions, all countries, but not with equal success, strive to lessen the causes as well as the hardships of injury.

An extreme employers' liability law is still in force in Switzerland, proposed compensatory legislation having been defeated by an initiative and referendum vote. An elaborate plan of accident insurance providing for contribution from employer, employe and the state, has, however, been formulated and will in all likelihood be enacted within a year.

Employers'
Liability
Law in
Switzerland

FIGURE 2
INJURED WORKERS' RELIEF IN EUROPE



Switzerland (red) is the only progressive country with employers' liability system.
All others have compensation laws for injured workers.

A majority of European countries have found a compensation act of little use unless obligatory insurance guarantees the compensation awards to the injured workman without over-burdening the small employer.

FIGURE 3
COMPENSATION THROUGH COMPULSORY INSURANCE



Compulsory insurance for all workers (red) in Austria, Finland, Germany, Holland, Hungary, Italy, Luxembourg, Norway.

Compulsory insurance for part of wage workers (dotted) in Denmark, France.

Optional insurance (white)—Belgium, England, Spain, Sweden.

In Germany, Austria and Luxemburg the employer is required, as a condition of doing business, to belong to insurance associations, organized by crafts or sections, or administered by the employers themselves, subject to state supervision. In the Netherlands, Italy, Sweden, Finland, Hungary and Norway the state itself maintains

Insurance
Associations
in European
Countries

an insurance institution, of which the employer may avail himself, except in Hungary and Norway, where he has no choice, it being the only form of insurance permitted. The state guarantees payments of compensation in France, Germany, Italy, Hungary, the Netherlands and Norway.

Contributory
Principle in
European Laws

The contributory principle plays an important part in the compensation laws of Europe, as is evident from the following figure.

FIGURE 4
THE CONTRIBUTORY PRINCIPLE IN EUROPE



Employers pay whole compensation (red) in Belgium, England, Finland, Holland, Hungary, Italy, Spain.

Workmen or state contribute (white) in Austria, Denmark, France, Germany, Luxemburg, Norway, Sweden.

The extent to which European countries have adopted simplified court procedure or special arbitration courts for settlement of compensation disputes is shown in the next figure.

FIGURE 5
ARBITRATION COURTS, OR SIMPLIFIED COURT PROCEDURE FOR COMPENSATION DISPUTES



Countries with simplified court procedure for settlement of disputes (red), Austria, Belgium, Denmark, England, France, Germany, Holland, Hungary, Italy, Norway.

Countries with regular court procedure (white), Finland, Spain, Sweden.

Germany established its system in 1884, Norway in 1894, Finland in 1895, Great Britain in 1897, France and Italy in 1898, Spain in 1900, Holland in 1901, Belgium in 1903, and Russia in 1904. Between 1901 and 1905 New Zealand, Australia, and the Canadian Provinces of British Columbia and Alberta followed the lead of the Mother Country, Quebec adopting the substantial provi-

Dates of
Establish-
ment of
Systems

sions of the French law in 1909. While all this legislation presents underlying identities, it is worked out with a variety of dissimilarity in secondary principles and methods expressing national traditions and characteristics, and differing views of public obligation. These differences of degree and kind in the creation of liability and administrative detail while interesting are not of sufficient importance to warrant detailed attention. They were strikingly suggested in the brief analysis made by Sir John Gray Hill at the London Conference of the International Law Association in August 1910. He pointed out that the acts of different countries vary from one another in the following way:

1. Whether the employer is personally liable to the employe, or only bound to provide or contribute to the cost of an insurance fund out of which payment is to be made.

2. Whether, when the employer is liable, his liability is for accidents however caused, or only for those due to negligence of the Superintendent appointed by him or by his authority, or to the defective state of the appliances used in the work.

3. The occupations to which the enactments relate.

4. The maximum amount of annual earnings which exclude an employe from the benefit of the Act.

5. The acts of the employe in relation to the accident which disentitle him to establish his claim.

6. The extent of the claim of the employe or his dependents. In this are included—

- (a) In case of temporary disablement, the right to medical treatment, nursing, etc., and the duty

to submit to the same; the period after the accident at which the first payment having reference to wages becomes due; the proportion which the payment bears to wages; the minimum and maximum limits both as to the amount and as to the period for which they are to be continued; and special provisions as to persons under age.

- (b) In case of permanent disablement, whether partial or total, the enactments differ as to the like questions, and also as to whether a certain value or scale of compensation should be applied to the loss of a particular part of the body of the employe, such as a leg, an arm, or an eye.

7. In case of death—

- (a) The allowance for funeral expenses.
- (b) The rights of the dependents—what relations are to be considered as such, and in what order, and whether illegitimate relations are to be included, and to what extent—the mode of arriving at the amount payable, whether by lump sum or by annuity—the period for which the latter is to last and the minimum and maximum limits as to amount.

Variations
in European
Laws in Com-
pensation for
Death

8. How the enactment is to be administered, e. g.—

- (a) How far government or other officials acting independently of the employer and employes are to intervene in the administration.
- (b) Whether questions as to the interpretation of the enactments, and the rights of the parties

under them are to be decided by a special tribunal, or by the ordinary courts of the country concerned.

(c) What powers of appeal are to be given.

(d) How the expenses involved in the settlement of these questions are to be borne.

9. Whether sickness and disease not arising from accident are to be provided for.

10. The bearing of the enactment upon the limit of liability of shipowners for loss of life or personal injury.

11. Whether the employe shall be entitled to enforce a claim against a foreign shipowner residing out of the jurisdiction of the courts of the country where the employe resides, by arrest of his ship, situate for the time being within the jurisdiction.

12. Whether the employe shall be entitled to contract with the employer, under any and what circumstances, not to claim the benefits of the enactment.

Recognition
of the
Compensa-
tory Principle
in the United
States

In our own country the compensatory principle has received limited recognition in the coal mining industries of Montana. In New York, it was given more extended application in a measure which became effective in September 1910. Congress, in 1908, passed a very restricted statute of compensation for the benefit of artisans and laborers in the federal service. Its administration is in the hands of the Secretary of Commerce and Labor. Under its provisions he may allow to the workmen in certain specified federal employments full pay for one year or less during disability resulting from injuries received at work. It is provided, however, that no compensation shall be paid unless the injury

results in disability for more than fifteen days and is not due to the *negligence* or *misconduct* of the applicant. In case of death from a work injury, the widow, child or children, or dependent parents, are entitled to receive, in such proportion as the Secretary may determine, the workman's full wages for one year.

In many countries of Europe, the compensatory principle was in its early stages applied to selected industrial groups, but as conventional notions of the relative hazard of various employments yielded to the accumulated records of experience, agriculture was laid under the same burden as industry, and practically all employments are now covered.

Tendency to
Apply Com-
pensation Prin-
ciple to all
Employments

Reviewing this brief examination of the origin and general nature and development of what is termed the compensation legislation of Europe, the mind must be impressed with the presence in all foreign systems of certain common elements:

1. That the general policy is to shift the economic burden of injury from the individual to the employment in which it is received, and through it, as an incidental cost of production, to general society. The practical aim is to give an assurance of limited compensation. The original basis of the proposal is insurance, either indirectly by the creation of a limited right of recovery against the employer, or directly by establishing a fund to which contribution is enforced: one method establishing an insurance fund and eliminating personal liability, and the other extending personal liability without an insurance fund.

Shifting
Liability
from Individual
to Industry

Accident Pre-
vention In-
separable from
Compensation

2. That the cause of accident requires consideration equally with its consequences. Injury must be lessened as well as relieved, and therefore while fault ceases to be the basis of recovery, misconduct imperiling the life and limb of others must be severely penalized.

Contribu-
tory Insur-
ance Dis-
tinct from
Personal
Liability

3. That systems based upon contributory insurance are distinct in fundamental principle from those which merely extend personal liability. The first establishes a legal right to assistance arising from the contribution of the person assisted. The second establishes a legal duty to relieve dependence existing in another. The former anticipates impaired working capacity; the latter provides relief against existing distress. One makes the worker help himself; the other makes the employer help him.

4. All insurance systems strive to bring employer and employe together. All based upon personal liability avoid consideration of the elements of personal antagonism.

5. The many evils of litigation being a motive for change, all states endeavor to provide a simplified procedure, insuring speedy, cheap and efficient adjustment of claims free from technical delay.

Conceptions
of Public
Authority
in Europe

Back of all this vast body of European law lies fundamental conceptions of public authority essentially differing from our own, and generally dominant, parliaments approaching the subject-matter of regulation with substantially none of those checks upon legislative action which are an important part of our system of government. The legislatures with which we are familiar are subject in the exercise of their power to the sharp

restraints of the written constitutions of their state and of the nation. Few of the countries of Europe possess written constitutions. In many, the legislature is the supreme authority, exercising its power with substantially slight restraint.

The Continental notion of law is quite different from our own. Its people are accustomed by the habits of their national life to yield obedience to rules of conduct prescribed by an autocratic authority for inferior subjects. Americans, like Britons, regard established custom as the basis of law and regard with vigorous resentment arbitrary proposals departing from long accepted habits of thought and action. Indeed, from the Norman conquest to Magna Charta, English history is a record of the continuous struggle between William the Conqueror and his successors to compel the acceptance of the Continental notion of law and the Saxon struggling to reassert the supremacy of rights based upon long continued usage.

Established
Custom
Basis of
English and
American Law

Partly from these considerations, attention is concentrated in the ensuing pages upon the compensatory systems of Great Britain and Germany. From the former, we have derived our principles of jurisprudence and our methods of legal administration. The legislation of Parliament and the decisions of British courts have always exerted a powerful influence on the legislatures of our states and nation and the course of our judicial decisions. We naturally anticipate with special interest and hope to profit by examination of the manner in which principles and methods foreign to our system have been introduced and have operated in a nation

Reasons for
Concentrating
Attention Upon
Compensation
Experience of
Great Britain
and Germany

whose notions of personal liability and whose industrial conditions and legislative traditions are like our own.

German
Compensation
Legislation and
Statistics
Authoritatively
Recognized

On the other hand, we turn to Germany, not only because that country originated and developed these ideas, which half the world has imitated, but because, as we shall observe, it has fashioned peculiarly democratic methods of administration. Moreover, Germany is recognized throughout Europe as the great exemplar and authority upon the development and application of these principles, and exercises a dominant influence in their study and application. But perhaps the strongest of all reasons for dwelling upon the system and records of that great empire is because, with characteristic thoroughness, she has compiled marvelously detailed information respecting every circumstance of her experience, and progressively applies it to the continuous development of a scientific scheme of accident prevention and compensation. No other nation in the world possesses data equally complete and extensive. Moreover, in her population, in the character and distribution of employment, in the extended use and continued application of tools and mechanical appliances to new occupations, in the comparative ratio of agricultural to industrial workers, in fact, in all of the circumstances of commercial and industrial life which make comparison profitable, Germany presents, upon the largest scale, the most instructive example to which we can turn to form practical conclusions respecting the value of the novel principles in which we are interested.

German Data
Complete and
Authentic

CHAPTER TWO

**Underlying Principles and General Working of the
German Scheme of Compensation for
Occupational Accidents**

CHAPTER II

UNDERLYING PRINCIPLES AND GENERAL WORKING OF THE GERMAN SCHEME OF COMPENSATION FOR OCCUPATIONAL ACCIDENTS

Germany is a nation of 63,000,000 people. Her proportion of industrial and agricultural population is not very much different from that of the United States, as is evident from the following figures:

Comparative
Statistics

Comparison of United States and German statistics.

Occupations.	Population.	
	Germany. 1907	United States. 1900
1. Agriculture, Horticulture, Stock Raising, Forestry, etc.,	9,883,257	10,381,765
2. Industry,	11,256,254	7,085,309
3. Trade and Transportation,	3,477,626	4,766,964
4. Domestic and Personal Service and Public Service,	471,695	5,580,657
5. Professional and Public Service,	1,738,530	1,258,538
	<hr/>	<hr/>
Totals,	26,827,362	29,073,233

Public Officials and Soldiers in the United States are covered under No. 4, in Germany under No. 5.

See United States Statistical Abstract 1909 and Statistisches Jahrbuch 1910.

Accident
Prevention and
Compensation
System in
Germany

Twenty-five years ago the leading men of Germany became dissatisfied with the workings of its employers' liability laws because, like our statutes, they were wasteful, slow in operation and antagonistic to harmonious relations between employers and wage workers. Prince Bismarck was the prime mover in bringing reform. He reasoned that while the German government had exceptional powers to force arbitrary laws upon her employers, it would not be wise to use this power autocratically. Instead of opposing employers, and especially employers' associations, Prince Bismarck conceived the idea of making them the very instruments for carrying out a novel scheme of compensation on scientific and efficient lines. As a result the whole accident prevention and compensation system of the German empire rests upon the shoulders of employers' associations, and these have succeeded, with the co-operation of workers, and under the supervising control of the government, in making the German plan the greatest example of what can be accomplished by a nation with proper co-operation and organization between government, employers and workers.

The first law enacted on July 6, 1884, for the industries, was followed with an extension law on May 28, 1885, for land and water transportation, including telegraph, marine and army. It was again extended on May 5, 1886, to cover agricultural and horticultural pursuits and forestry. It was further extended on July 11, 1887, to cover building industries, tunneling, excavating, etc., and finally, on July 13, 1887, sailors and fishermen were covered.

In the year 1900 a revision of the various laws resulted in their simplification and partial unification and at the present time another endeavor is being made to simplify and co-ordinate the various social insurance acts providing for sickness, accident and invalidity relief.

Revision of
Laws in
1900

The philosophy and the economic and legal basis upon which Germany's system is built, as well as its advantages and disadvantages, can best be judged from a statement which we have secured from G. Neisser, LL.D., Imperial Counsellor, and one of Germany's foremost legal authorities on this subject. A translation of his statement is as follows:

"Production and commerce have been subjected to far-reaching changes during this generation. This, in connection with feverishly intensified speed of all working processes, has increased the chance of accidental injury to an unusual degree. In view of the changes, the civil laws of nations failed to meet the situation. They gave injured workers a claim to damages only upon establishing the employers' *individual fault*.

"Neither did the *German Imperial Liability Law of June 7, 1871*, meet the practical requirements of safeguarding the worker against the economic results of his occupational hazards. Based upon the changes brought about through industrial progress, it increased employers' liability, but it maintained the principle of *responsibility through fault*.

"Guided by experience and carried on by the sentiment of increased social responsibility which, during the last quarter of a century, permeated all classes of our Vaterland, Germany's leading men undertook to make

Germany's
Leading Men
Interested

legal provision for workers injured through accidents upon an entirely new and hitherto unknown basis. This magnificent reform work rests upon four principles:

Principles
on Which
Reform will
be Based

"1. Proceeding from the assumption that he who creates an 'enterprise', that peculiar structure of human beings, things and forces, and induces human beings to labor among arms of steel moving at uncanny speeds, establishes a source of danger and becomes responsible for damage resulting from this source. Under this theory *employers' fault* need not be proven. The fact that injury has been caused establishes a right to compensation.

"2. Convinced that in many cases the resources of the individual employer would not prove equal to the enormously increased liability, and that therefore the existence of the employer as well as the compensation of the injured worker would be jeopardized, *individual responsibility* was eliminated, and in its stead was placed the *collective responsibility* of the industry.

"3. To carry out this idea large industries, as well as agriculture, commerce and crafts, or small industries, were organized into employers' associations grouped according to callings. That is, legally incorporated self-governed bodies were formed, which every employer was *compelled by law* to join. The miller must join the Millers' Employers' Association, the teamster, the Employers' Teaming Association, etc. Upon these organizations was placed the responsibility of carrying and administering the accident compensation system, and to this end they were invested with far-reaching legal powers for enforcing their rules, raising money, etc.

Employer
Must Join
Association
of his Calling

"4. Accident prevention, being of greater importance and larger social value than compensation, was also placed in the hands of these employers' associations, with the necessary legal authority for enforcement of rules.

"These four principles of our system have proven their strength and soundness.

"The majority of civilized nations have approved and copied the principle of making claims for accident compensation independent from the proof of fault. In Germany no one wishes to return to the conditions which existed under the old liability laws—to the innumerable disputes concerning degrees of fault, which often experts could not determine, and which made a damage suit nothing but a gamble. As proper safeguards against abuses of the system act, the restriction of maximum compensation to two-thirds of the loss caused by an injury and the legal authority for penalizing employers as well as workers for violation of safety regulations—these safeguards are considered sufficient, although they might possibly be widened in some details.

"The principle of obligatory insurance which was opposed so severely for a long while, in and outside of Germany, has been accepted now almost everywhere. It was a memorable event when, at the International Congress for Social Insurance in Rome, October 1908, Luzatti, member of the Italian cabinet, who for years had been the most energetic champion of optional insurance, acknowledged himself unreservedly converted to the obligatory principle, and Millerand, member of the French cabinet, joined him. It is almost generally recognized now that only obligatory insurance will protect

Obligatory
Insurance
Extending

workers, and at the same time safeguard employers from excess liability.

Individual
Employer
Protected by
Organization

"The elimination of individual liability and the organization among employers have proven exceedingly fortunate ideas. The individual employer has been relieved of constant worry about his very existence, and the employers' associations have, according to the testimony of those competent to judge, proven their full ability to perform the great task which was placed before them. Only the expert knowledge of the practical industrialist could devise such equitable standards of taxation in exact keeping with hazard as have been established in Germany, and the fact that these, at times rather hard burdens, are borne without a murmur by the employers, is due to the knowledge that the taxation is levied by their own elected trusted officers, and not by 'outsiders.'

Accident
Prevention
in Germany

"Similarly, the high development and efficiency of 'accident prevention,' as carried out by German employers' associations, are the result of combined expert technical and economic knowledge, which could not possibly be executed in equal measure either by governmental officers or by employers organized according to territory, instead of being organized according to crafts.

"The exemplary achievement of employers in the direction of caring for the well-being of their injured and sick workmen, and for their prompt restoration to health, is again the direct result of the present type of organization. The building of hospitals and dispensaries far beyond the requirements of the law, and the stimulus and systematic direction which has been given to medical

science and surgery through the aid of these employers' organizations, could never have been exerted through force of laws or any other agency.

"True, there are attacks of various kinds on the German accident insurance system. Workers often consider the compensation inadequate, but forget that allowance ratios are higher in Germany than in all other countries which have adopted the compensation system. Furthermore, the payment of a compensation rate, fully equal to sustained losses, would invite dissimulation and weaken the sense of personal responsibility.

Workers'
Objections

"Some workers take exception to the fact that they have no share in the administration of the accident insurance system. They forget that the task which has been placed upon the employers' association requires that they must have the right to govern their own internal affairs, and that the interest of the worker is properly restricted to co-operation in accident prevention and receipt of legally outlined accident compensation. The workers are represented in the commissions which draft legal accident prevention regulations. They are also represented in arbitration courts and final appeal courts, where all disputed claims for compensation are settled.

"The employers, on the other hand, are, as a general rule, satisfied with the accident insurance system as adopted some twenty-five years ago. In fact, they have accepted the heavy personal and financial burdens of the new state of affairs in a spirit of cheerfulness. If, of late, there is a change here and there in this sentiment, it does not signify opposition to the original measure, but to innovations carried out later. For instance, the in-

System
Meets with
General
Satisfaction

creased taxation for reserve funds is considered excessive by a great many. Recent legislative tendencies to restrict the autonomy of the associations are feared and opposed.

"It must be acknowledged that some of the small employers are groaning under the insurance burdens, and it is worthy of consideration whether or not, for some of these industries, which technically do not differ much from each other, territorial organization instead of organization by crafts might not bring about greater economy in expenditures.

Social
Political
Theories

"Now a word about the social political theorists. For years they have been calling for unification of all workers' insurance—accident, sickness and invalidity—but they have not been able to give more than a semblance of reason for such change, nor have they been able to construct a unified social insurance system which does not materially lessen somewhere the benefits of the present system. A noticeable change has taken place in public sentiment as well as in scientific theories of workers' insurance. It has been realized that the various branches of workers' insurance—sickness, accident and invalidity—rest upon different principles, and therefore necessarily require different forms of organization. It follows that it is better to let each branch grow according to its own special requirements, than to bring together by force that which does not belong together.

"The bill, which is at the present time before the Reichstag, does not restrict the independence of the employers' associations, but in some directions it makes dangerous concessions to the unification scheme.

"Every civilized nation must, of course, adapt its accident insurance system to its own economic and social conditions and to the characteristics of its people, but it is to be wished that the insurance legislation of every nation may succeed in strengthening the sense of social responsibility, in relieving individual distress and in maintaining and increasing the strength and efficiency of the nation in the same measure in which the German empire has succeeded, thanks to the accident insurance reform of Emperor William I."

System
must be
Adapted
to National
Requirements

A Summary of Recent German Figures

The following general facts and figures, taken from the statistics of 1908, indicate the magnitude of Germany's accident prevention and relief system.

Out of 63,000,000 people with 16,000,000 wage workers, in 6,100,000 places of employment, there are 23,750,000 persons insured against accidents.

Statistics
of Germany's
Relief
System

Benefits amounting to \$39,500,000 have been paid during 1908 to 906,147 injured workers, 81,498 widows, 4,192 parents and 109,757 children; 2,500,000 accidents have been compensated with \$451,000,000 during the last 25 years.

The first year of the accident compensation system was 1885.

In 1885, \$5,002 were paid in pensions for 268 cases of injury.

In 1890, \$5,088,000 were paid in pensions for 100,251 cases.

In 1895, \$12,610,534 were paid in pensions for 318,368 cases.

In 1900, \$21,838,000 were paid in pensions for 594,889 cases.

In 1905, \$34,036,928 were paid in pensions for 892,901 cases.

In 1908, \$39,471,180 were paid in pensions for 1,008,677 cases.

At first glance this terrific growth of injury cases and compensation seems ruinous to a nation or her industries. But it must be borne in mind that the annual pension method of Germany adds the new cases to the old, and the total number of pensioners will grow for a number of years to come.

Record of
New
Accident
Cases

The record of *new* accident cases, lasting more than thirteen weeks, during the twenty-five-year period, gives this result:

In 1885,	268	total new cases.			
In 1890,	42,038	"	"	"	
In 1895,	75,527	"	"	"	
In 1900,	107,654	"	"	"	
In 1905,	141,121	"	"	"	
In 1908,	142,965	"	"	"	

Summary of Facts and Figures for 1908

9,687 workers were killed; 1,072 workers were permanently and completely disabled; 56,806 workers were permanently maimed; 73,584 workers were temporarily disabled; 142,965 injuries extended over 13 weeks; 662,321 is the total number of injured workers; 1,008,677 workers

received pensions to the amount of \$39,500,000 for occupational injuries.

One Pension for Every Sixty-three Inhabitants

Truly these are tremendous figures which might be used to splendid advantage for terrible comparisons, such as we are accustomed to hearing on the lecture platform, and to seeing in some newspapers. How small looks in comparison, the total of 6,000 killed and wounded in the Spanish and Philippine wars, or the 105,000 killed and injured soldiers in the six bloodiest battles of our Civil War, or even the 500,000 killed and injured workers, which number has been given by some one as the annual result of accidents in the United States. But this report is not intended as a work of fiction; therefore, we will continue to consider and compare facts only.

The death rate, due to work accidents, has increased in Germany, as is evident from Figure 6.

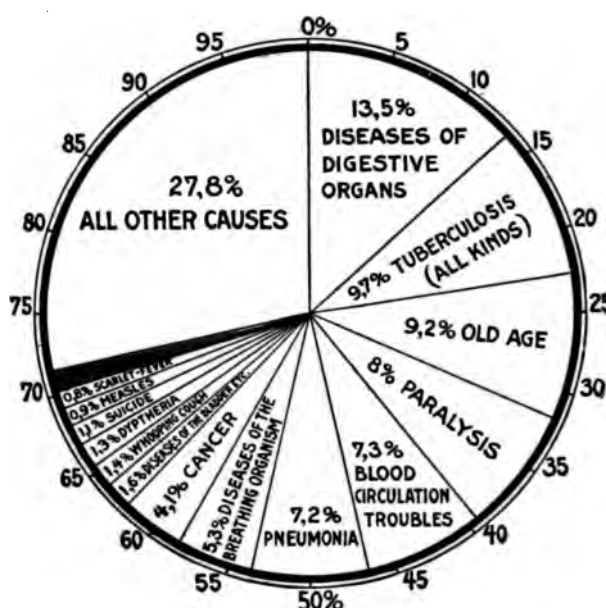
FIGURE 6
DEATHS CAUSED BY OCCUPATIONAL ACCIDENTS



(Per 10,000 deaths from all causes.)

But the total number of deaths due to occupational accidents is small as compared with other causes, as shown in Figure 7.

FIGURE 7
DEATH CAUSES. (STATISTICS 1905-07)



Occupational accidents caused in 1905-07 eight-tenths of one per cent of the total number of deaths.

Organization Receipts and Expenditures

Figure 8 will bear careful study. It shows organization receipts and expenditures of the German accident insurance system. One of the most interesting things it points out is the large number of workers not covered by compulsory insurance who come under the Act voluntarily.

It seems that with the exception of one and a half or two million people engaged in mercantile pursuits, every individual who can possibly be placed under such an Act

FIGURE 8

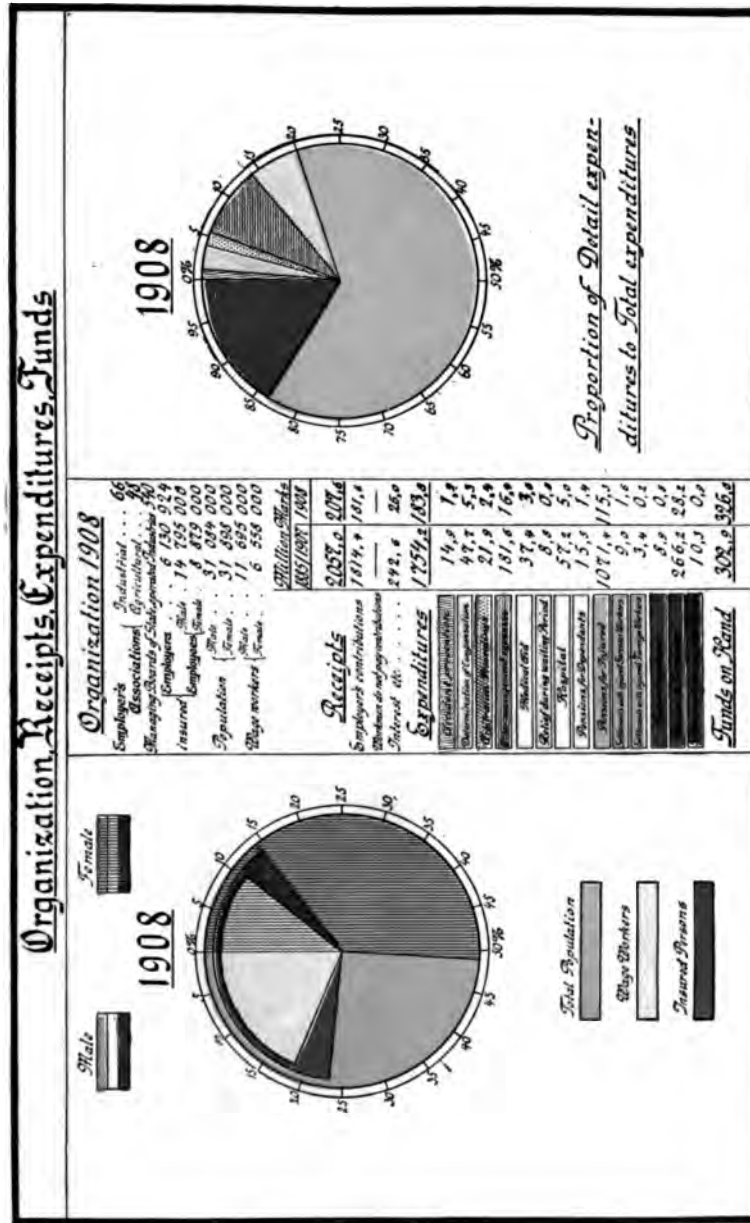
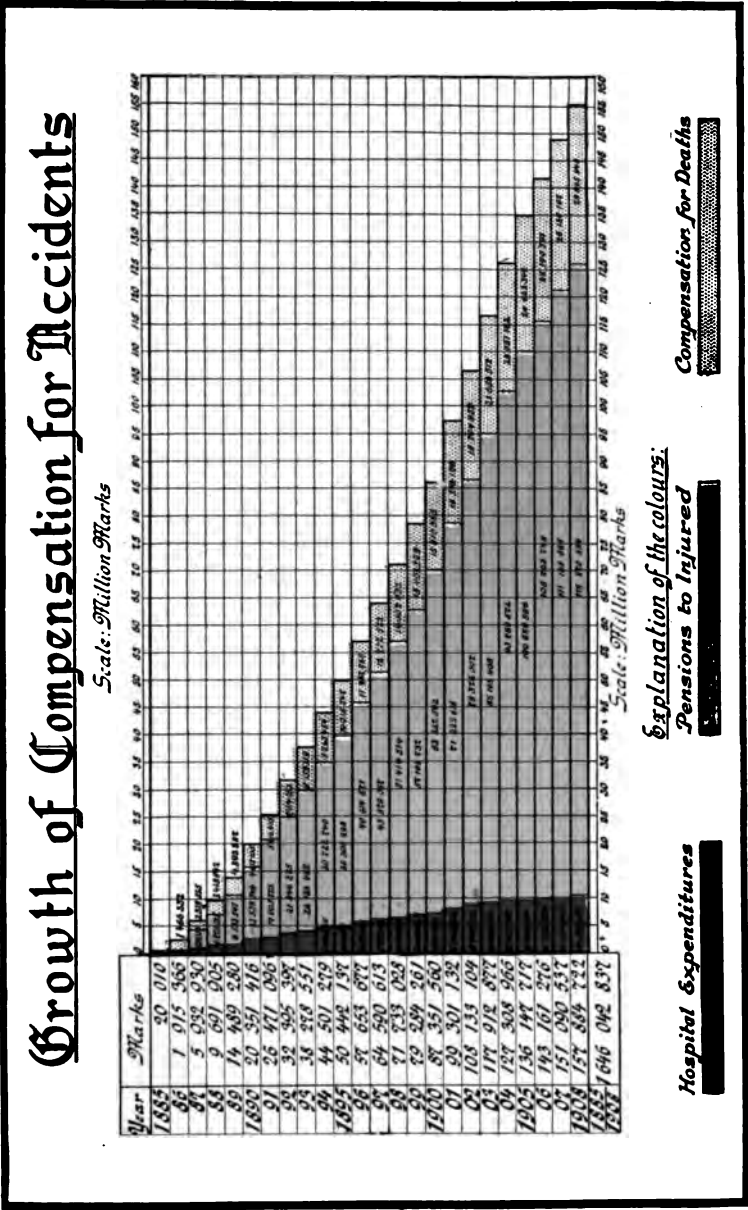


FIGURE 9



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is now insured, either by compulsion or voluntarily. We are told that the law will be extended in the near future to cover all those engaged in mercantile trades, earning \$750 per annum or less.

The growth of workers' accident compensation in Germany since 1885 is illustrated in Figure 9.

Growth of
Accident
Compensation
in Germany

Germany undertook far-reaching social relief by legislation and insurance on a very large basis, far ahead of that of any other nation, and the experiment has been watched with great interest at home and abroad.

The great internal harmony which Prince Bismarck considered of prime importance seems not to have been realized, as is evident from many of the letters of German manufacturers contained in the Appendix. Dr. Spiecker, a leader among German industrialists, president of the Siemens & Halske Co., and chairman of the League of German Employers' Associations, said, during a recent speech:

"It is, unfortunately, true that the first object of social insurance, which was to bring lasting internal peace to our citizens, has so far not been realized. Nevertheless, it appears lately that at least a small ray of light has penetrated the darkness, and that there is little realization among workers of the benefits derived from our social insurance. On the other hand, economically and industrially, social insurance seems to have benefited Germany."

Dr. Kaufmann, president of the Imperial Insurance Department, and the highest Government official connected with German social insurance, made the following significant statement to us:

"The workers' lives preserved mean maintenance and increase of our national resources and therefore give splendid returns for the heavy financial burdens which social insurance places upon our economic structure. It is not an accident that the unprecedented expansion of German commerce and industry and the wonderful improvement in the economic welfare of the nation during the last twenty years have happened concurrently with thoroughgoing improvement in the condition of our workers. There is a close connection between the two events."

Progress of
German
Industries

A striking illustration of the progress of German industries is given in the following figures taken from the statistics of the employers' associations for electrical and mechanical trades.

During twenty-three years there has been an increase in manufacturing concerns from 1,062 to 6,536, in workers employed from 44,337 to 238,345, in annual pay roll from \$9,000,000 to \$80,000,000, increase of average wages 59 per cent.

While the interest of German employers and public officials in the social insurance progress of other countries is without doubt based primarily on considerations of humanity and good-will, the Germans make no secret of their desire to have their system of obligatory social insurance adopted generally in all civilized countries. They claim, and with much justice, that general obligatory workers' insurance against accidents, sickness and invalidity, has reduced unfair competition in Germany, and has brought the employers' interests together in many desirable ways. It has made it impossible for the selfish, un-

scrupulous or inexperienced employer to underbid his humane, conscientious and experienced neighbor by giving less consideration to the health and well-being of his employes. Germany would like to carry this same theory into practice with the employers of other nations for the sake of international competition.

In a recent publication Prof. Dr. Hartmann, the best-known technical expert on accident prevention in Germany and one of the highest government officials, says :

“Various arguments have been made for the exhibition of the German national insurance system at various foreign expositions. It was said that calling attention to the great social monument which Germany has built up in this direction must surely increase the respect of the world. On the other hand, it was argued that since German employers are placed under heavy burdens on account of their large share of workers’ insurance premiums, it would be well to have other countries know and imitate Germany’s system. Foreign countries having to carry the same burden would make the question of international trade easier for Germany.”

Germany
Desires other
Nations to
Adopt Her
System

The financial burden of German social insurance is best expressed in a quotation from Dr. Kaufmann’s letter to us. He says: “From your studies you understand in a general way the manifold benefits of our insurance system. Nevertheless, I want to call attention to a few facts and figures. Up to December 1909, the complete system (accident, sickness and invalidity insurance) paid \$1,925,000,000 to 94,000,000 sick, injured, invalidated workers and their dependents. The complete system pays out

daily \$475,000 and has accumulated reserve funds amounting to \$540,000,000. These figures give an indication of the economic importance of social insurance."

Compensation
to Injured
Workers in
Germany

Compensation to injured workers in Germany consists of:

1. Free medical attendance, including medicine, supports, crutches, etc.
2. Pension up to two-thirds the annual wage rate for total disability and in proportion for partial disability. For the first 13 weeks this pension is paid out of the sickness fund.
3. In case of complete helplessness requiring nurses or attendants, pension up to 100 per cent of annual wage rate may be allowed.
4. Free treatment in hospitals or sanitariums and pension of 60 per cent maximum to dependents. Compensation continues as long as disability continues, but is subject to increase or decrease in proportion to increased or decreased earning capacity as the result of injury.
5. In case of death 20 days' wages, but not less than \$12.50, and pension to dependents (widows or widowers, children under 15 years of age, parents, grand-parents or grand-children) amounting to not more than 60 per cent of annual wages. Three hundred times average daily wage is usually considered annual wage.

Deferred Payments

Deferred
Payments
in German
Accident
Insurance
System

One more feature of the German system needs to be explained before we go into details. It is the lack of providing for deferred payments in the accident insurance scheme. On this subject the sentiment among employers

is almost universal. They claim that even with its acknowledged faults this feature of their system is much superior to the methods used elsewhere of attempting to cover such deferred payments. They say that neither twenty-five years ago, when Germany started, nor now, are there statistics available upon which to base, with reasonable certainty, the future cost of accident compensation. They feel that it would be a most serious mistake to tie up the billions of dollars required to cover any reasonable estimate of deferred payments, and think that the withdrawal of such sums would do much more harm to German industrial development, which now needs all the available cash in the country, than any harm that can possibly come to future industries which necessarily will have to start under a heavier financial burden due to constantly increasing insurance premiums. They feel that such heavier burden is more than outweighed by the strenuous pioneer work which had to be done by the German industries at the beginning, and which must be done even now. However, deferred payments are not altogether disregarded. All employers' associations are establishing reserve funds at increasing percentages. Of last year's premiums 9 per cent was laid aside for reserve to cover deferred payments. Furthermore, some employers' associations—for instance, the Excavating Contractors' Association—covered the whole of the deferred payments because the nature of their work and their membership are not as permanent and steady as those of other crafts.

Reserve
Funds
being
Formed

CHAPTER THREE

**Detail Description of Some of the Important Features of the
German System—Efficiency, Prompt and Proper
Medical Aid, the “Doctor Question,”
the Contributory Principle**

CHAPTER III

DETAIL DESCRIPTION OF SOME OF THE IMPORTANT FEATURES OF THE GERMAN SYSTEM—EFFICIENCY, PROMPT AND PROPER MEDICAL AID, THE “DOCTOR QUESTION,” THE CONTRIBUTORY PRINCIPLE

We have pointed out that wastefulness is one of the serious faults of our present employers' liability system. If we were to consider the subjects according to their importance, we would place the lack of general accident prevention activity and antagonism to harmonious relations ahead of efficiency, but for technical reasons we shall consider these subjects later on.

Wastefulness
a Serious
Fault in
Present
Systems

Practically all accident insurance in Germany is of the mutual kind. Accident insurance institutions are employers' associations organized according to trades or crafts for the purpose of carrying, mutually and collectively, their workers' accident compensation risk. Under the German law every employer must belong to the organization of his craft and to these employers' associations is given the necessary legal power to enforce accident prevention and insurance rules, not only upon the employer but also upon the worker. For violation of rules the employer can be fined \$250 for each offense, and in addition his accident insurance rates can be increased. A worker can be fined \$2.50 for each violation and there is now a measure before the Reichstag which would make

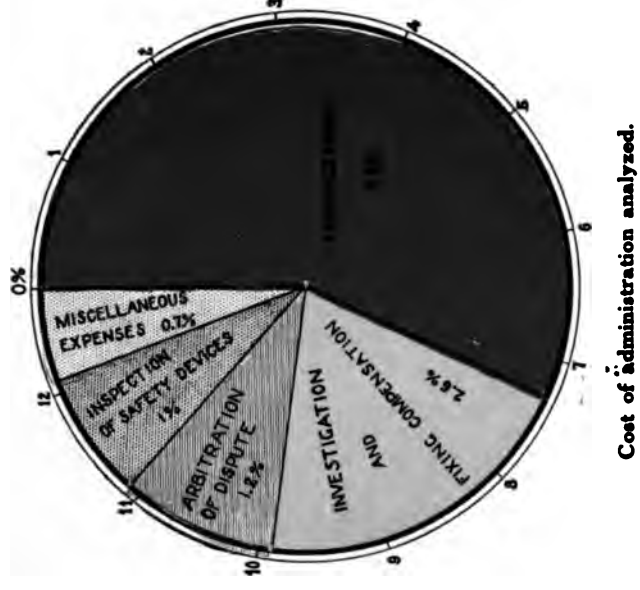
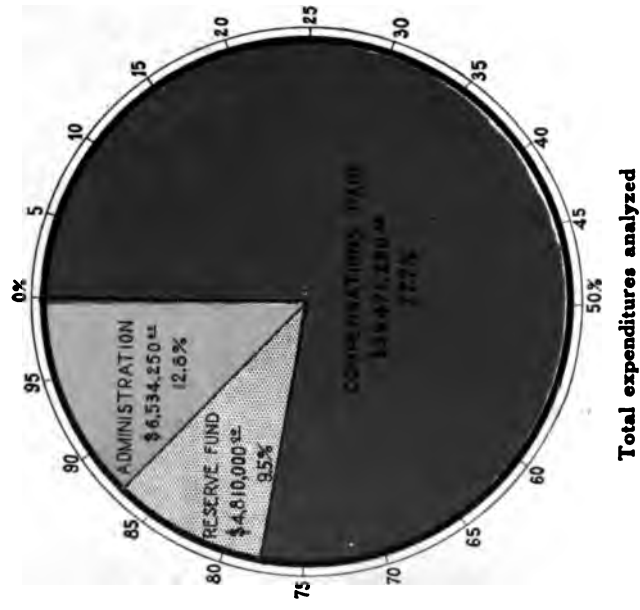
willful and serious destruction of safety appliances a penitentiary offense. The whole administration of the compensation law has really been placed in the hands of the united employers, always, of course, under the supervising control of the state, through the Imperial Insurance Department.

The German
Government's
Attitude
Respecting
Employers

It practically amounts to this. Germany says to her employers:

"The interest of the state demands the good citizenship and highest efficiency of every worker. Good citizenship and efficiency are dependent upon mental and physical welfare. It is the duty of the state to reduce to the smallest possible degree all dangers to the workers' well-being. Occupational accidents are a large factor in this direction. We must prevent accidents and use all possible force and ingenuity in that direction. For unpreventable accidents we must compensate the injured workers and their dependents. The public must pay for this compensation, but instead of levying a general tax we make it your duty to collect this compensation from the public by adding to the price of your products. In order that there can be no unfair advantage, we compel every employer to pay his share toward proper insurance of his workers. We must be just to the workers, but also just to the employers. The employers must not be unnecessarily burdened. We must have a system which gives high efficiency in the industries and also high state efficiency. Our incapacitated workers must be taken care of in proportion to their decreased earning power, but we must avoid anything that will have a tendency to place premiums upon laziness, dissimulation, imagination or

FIGURES 10 and 11
EFFICIENCY OF GERMAN ACCIDENT COMPENSATION INSURANCE
 (STATISTICS FOR 1908)



poverty. Every individual's reasonable work is required for the good of the nation, and to this end it is important that an injured worker be restored as promptly and as efficiently as possible from the position of a consuming member to the position of a producing member of society. Go ahead, you employers, get together! Elect your own officers, adopt your own rules and regulations, eliminate waste, friction and red tape. Get down to business and get results. The less waste you have, the fewer accidents you have, the less you will have to pay for insurance and the less the nation will have to pay for compensation."

We shall point out how the employers have made good. The ability and the energy of the men who, as elected officers of employers' associations without pay, have served their crafts and their country, have created in twenty-five years a social insurance structure of which the nation is proud, and rightly so.

High
Efficiency
of the
German
System

The total cost of litigation under the German system is only 1.2 per cent of the total amount of insurance expenditures, and the total efficiency of the insurance system is remarkably high. It is said, by well informed persons, that of the money paid by employers for liability insurance in the United States only from 20 to 40 per cent reaches the injured workers.

Figures 10 and 11 indicate the efficiency of the German system of compensation for occupational accidents. Figure 10 analyzes the total cost, while figure 11 analyzes the detail expenditures which are carried under the Administration item of 12.8 per cent in Figure 10.

The term "administration expense" is often used very ambiguously. Not often is it construed as definitely as we cover it here, that is, as meaning every expenditure which cannot be charged to compensation or to reserve fund. Medical attention for injured workers is considered part of the compensation, the same as hospital expenses. This item amounts to 1.5 per cent of the total sum.

It must be remembered that such a high point of efficiency can hardly be attained under any other system.

1.—Because employers' associations carry accident insurance on a mutual basis and need make no profits for stockholders, nor do they pay commissions of any kind to solicitors.

2.—They are headed by employers of high standing and much experience, who devote their time and intelligence to the good cause without pay.

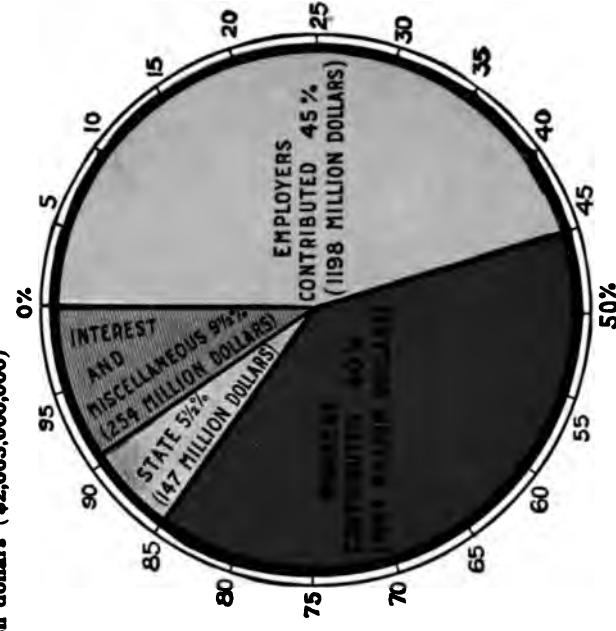
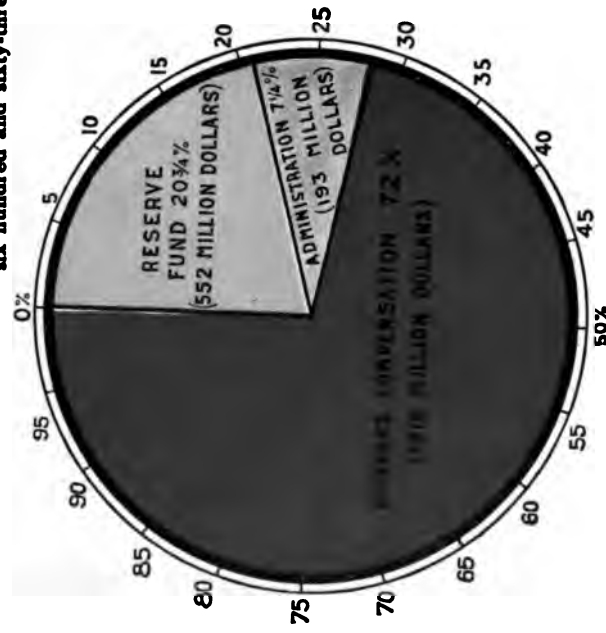
3.—Because prevention is encouraged under this system. Insurance rates are always based by expert adjusters upon the hazard of each individual shop, making due allowance for the money and energy spent in accident prevention appliances, somewhat on the lines of our mutual fire insurance companies.

Reasons for
Low cost of
German
System

There is an additional reason for the comparatively low cost of the German system. Much of the expense of the Government Insurance Department is paid out of general government funds. Prof. Dr. Manes, one of the best European experts on this subject, whose guidance has been of very great value to us, estimates that if all the expense of the Government Insurance Office was charged to the system it would raise the administration expenses 3 to 4 per cent. On the other hand, it is figured that this

FIGURES 12 and 13
EFFICIENCY OF GERMAN CONTRIBUTORY MUTUAL SOCIAL INSURANCE

Total sum contributed in twenty-five years for all social insurance (sickness, accidents and invalidity), two thousand six hundred and sixty-three million dollars (\$2,663,000,000)



Workers contributed forty per cent of the total amount, one thousand and sixty-four million dollars (\$1,064,000,000). They received in compensation 72 per cent of the total amount, one thousand nine hundred and eighteen million dollars (\$1,918,000,000)

expenditure, which might well be considered a government contribution to the workers' compensation fund, is perfectly legitimate because the beneficial results of workers' insurance upon charitable institutions, poor-houses, etc., which must be kept up by the state or cities, warrant this government contribution. While we are here discussing, primarily, relief for occupational accidents, it is illuminating and proper to say a word about the extent, efficiency and desirability of the whole social insurance system—sickness, accident and invalidity. The whole system is mutual and contributory. That is, the state, employers and workers each pay part of the maintenance expenses. A study of Figures 12 and 13 brings out the fact that workers pay 40 per cent of the cost and receive 72 per cent of the total funds gathered.

Under the heading "Efficiency" we should consider the justice and policy of lump sum payments vs. pensions. The advantage of weekly pensions for injured workers or dependents as compared with lump sum payments is so thoroughly fixed in the minds of German theoretical and practical experts, that it is impossible to find a single advocate of lump sum payments. These experts point out that accident compensation to injured workers is intended as payment of a debt by the public, through the agency of the employer, to persons hurt while directly or indirectly serving the public. Therefore, the injured person is, or his dependents are, entitled only to conditions similar to those which were disturbed by the injury. To place in their hands, accustomed only to the handling of weekly wages, large sums, usually does more harm than good. It is the duty of the public to demand, and it is the duty of the

Weekly
Payments to
Workers
Considered
Best Method

injured or his dependents to guarantee, no further dependency upon public charity in return for compensation.

Necessity of
Immediate
Medical
Attention

Probably the most important requirement in the direction of efficiency is prompt and proper medical aid. Authorities all agree, and are very emphatic on the point, that immediate attention to all injuries saves much suffering, many lives and limbs, and a great deal of money. This principle has been recognized by progressive employers and insurance companies in the United States, but prompt relief is still lacking in too many instances. It would seem almost impossible to have relief extended more promptly and more systematically than it comes forward in Germany.

Under the German laws every injured worker and his dependents are taken care of automatically and immediately after the occurrence of an accident. The first thirteen weeks medical attendance and compensation are provided out of the Sickness Insurance Fund. Beginning with the fourteenth week it is provided out of the Accident Insurance Fund.

Many German employers' associations have voluntarily established dispensaries and hospitals, and insist, as they have a right to under the law, upon having injured employees treated free of charge. Every injury, even a slight one, is examined and treated by medical specialists. They have learned that a most thorough and specialized medical system is a splendid precaution against more serious harm.

Savings
Effectuated by
Specialized
Medical
Systems

A recent special volume on this subject, written for the Berlin celebration, devotes pages to specific cases, illustrating the tremendous saving that can be accom-

plished in this direction. Let us quote one or two illustrations. The Bavarian Building Industries Employers' Association established, to its own satisfaction, that the expenditure of approximately \$8,000 in prompt and expert medical attention to its injured workmen, saved approximately \$160,000 in compensation expenses. A Vienna insurance institution figured the net savings in compensation due to the establishment of an ambulance and first aid medical station to be \$27,000 in nine months.

An engine driver 35 years old was scalded during a wreck. The attending general physician thought the amputation of the left arm necessary. The employers' association succeeded, through specialists' treatment at its own hospital, in saving the arm and bringing it back to normal strength. At the time of accident the driver earned \$330 per annum—a few years later \$425 per annum, which proves that his earning capacity was unimpaired. The amputation of the arm would have meant a cripple with less than half earning capacity and a life compensation of \$150 annually, equal to \$8,000 or \$10,000 total expense to the Employers' Mutual Insurance Association. We might quote fifty similar cases showing the wonderful results of conserving the best resources of the nation, the self-respect and earning capacity of her workers, by means of prompt and proper medical attention.

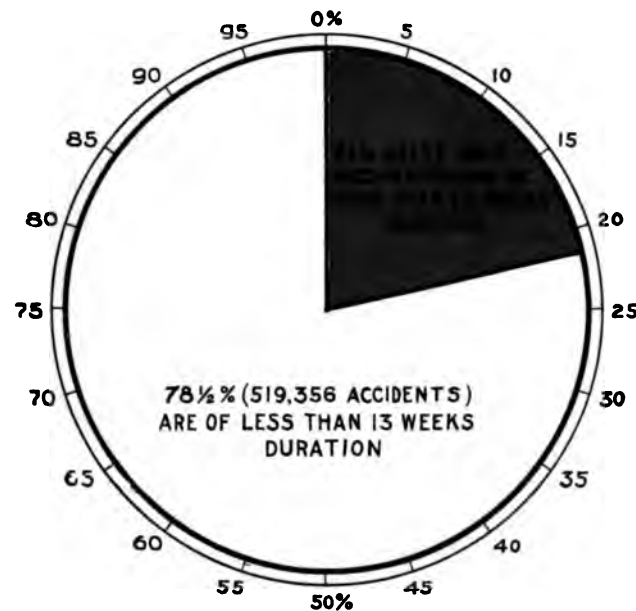
There is another phase of efficiency in which prompt medical attention by experienced doctors with special accident training is of immeasurable value—in prevention of simulation and imaginary ailments. Up to the present time German prevention experts have concentrated their

Prevention of
Imposition
and Imaginary
Ailments

energy upon serious accidents, and in a later chapter we shall point out that their efforts have been successful. But the number of light accidents is increasing rapidly. A study of Figure 14 shows that 21.5 per cent of all accidents are of a duration of more than 13 weeks, while 78.5 per cent are of a duration less than 13 weeks.

FIGURE 14

DURATION OF INDUSTRIAL INJURIES



Ratio of
Light to
Serious
Accidents

In point of cost statistics show that approximately 75 per cent of the total funds expended for accident compensation and prevention must be charged to the 21.5 per cent of the accidents lasting more than 13 weeks, while only about 25 per cent of the expenditures can be charged against the 78.5 per cent of accidents lasting less than

13 weeks. This shows the importance of preventing serious accidents. Nevertheless the rapid growth in the number of light accidents and the serious part which simulation and imagination play in this growth, have resulted in the concentrated effort of German experts to reduce the number of such accidents.

It is pointed out that the careful attention which is now given to slight injuries enlarges the workers' ideas of their importance. This, and the fact that he knows pensioners among his acquaintances who receive, regularly, payments for past injury, act as powerful mental suggestion and promote simulation as well as imaginary ailments. A Swiss medical specialist, in discussing this subject, says: "To me it is a final conclusion that in cases of accident the efficiency of the medical attendant is in direct proportion to his special training for such work. Simulation, which usually begins very soon after an accident, is much strengthened by uncertain action and lack of understanding on the part of the attending physician. No argument, threat or fear of penalty will succeed in eliminating simulation or imagination later on if improper attitude of the attending doctor immediately following the accident has allowed them to take root." It is generally admitted among German experts that simulation and imagination are the most serious drawbacks to the progress of scientific accident compensation. Not one of these experts admits that the "German system" is more susceptible to deception than any other system so far known. In fact, it is claimed that these drawbacks are inherent to any kind of insurance. Germans point to the growth of fraudulent claims in fire, life and sickness

Medical
Attendant
Should be
Efficient

Imposition
Hinders
Advancement

insurance, and say there will be such fraud as long as there are human beings. The temptation to secure something for nothing has proven too strong for many a person who seemed honest under normal conditions. But Germans do not stop at philosophizing. The various employers' associations have taken steps to reduce simulation and imagination to the smallest possible degree, and they say that next to close personal contact between the officials of the insurance and prevention system, immediate and proper medical attention by the associations' medical expert is the most important factor.

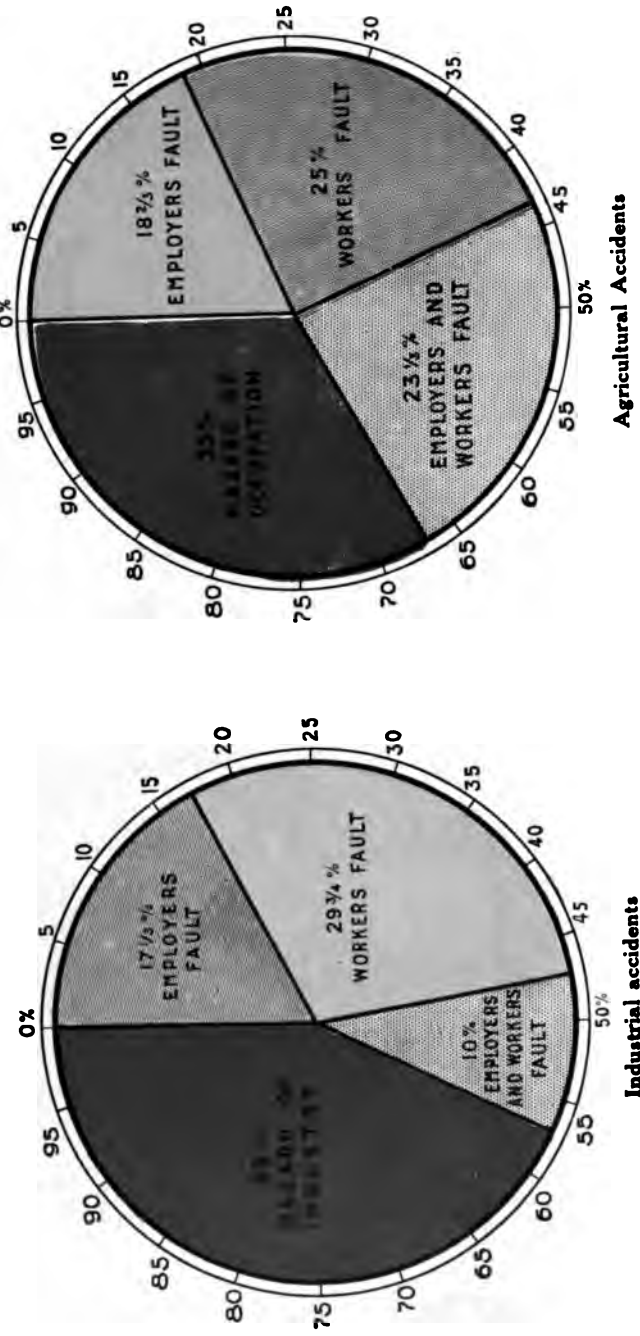
The "Doctor
Question"

The "doctor question," as it is generally known all over the Continent, has become a most important factor internationally in workingmen's accident compensation. At a recent international conference at The Hague almost three-fourths of the time was devoted to this question, one element advocating the selection of doctors by the insurer (usually the employer) and the other advocating the selection by the injured workman. The latter proposition was rejected by a large majority of the international delegates. France seems to have had especially bad experience in cases where the injured workman selects his own doctor. It is stated that the special expert training which efficient accident medical experts must have, is not possessed by the ordinary physician, and it is openly charged that collusion between injured workmen and unscrupulous medical men has very much increased simulation, and has established a certain class of ambulance-chasing doctors.

The tendency toward simulation requires a long waiting period for injured workers. The German system gives



FIGURES 15 and 16
RESPONSIBILITY FOR OCCUPATIONAL ACCIDENTS



unusual advantage in this direction because the injured receives relief from sickness insurance funds during the first thirteen weeks.

The co-operation of wage workers is an important phase in the direction of efficiency and elimination of simulation. Germany recognized that it would be unjust and unwise to penalize the fair and progressive employer or worker for the acts of the reactionary or lazy members of the craft.

Workers'
Co-operation
Needed

The causes of all accidents can be summed up under four heads. They are due to employer's fault, to worker's fault, to the combined fault of the two, or to the hazard of the occupation. Figures 15 and 16 picture responsibility for industrial and agricultural accidents.

Causes of
Accidents

The principle of compensating the workers for accidents due to the hazard of the industry or to the employer's fault is sound, but the principle of paying the injured worker for accidents due to his own fault is neither sound nor reasonable. He should be given the benefit of the most liberal treatment, but without his co-operation and contribution we cannot hope to progress as rapidly in many directions, and especially in the direction of prevention, as we should.

Mr. Louis Brandeis in discussing workers' contribution "from the standpoint of the lawyer," in the splendid little booklet distributed by the Ridgway Company, says:

A Lawyer's
View of the
Contributory
Principle

"The funds required to make compensation should be raised by contribution from both employer and employe, preferably in equal shares, and proportionately to wages.

"No system can be effective in preventing accidents which is not of a nature to secure the fullest co-operation of employer and employe; and none can be just which does not place the burden of making compensation for accidents actually occurring jointly upon those who jointly had the responsibility of preventing them.

"The compensation should be fairly commensurate with the loss. It should extend to the protection of the dependent widow and children. It should be made not in a lump sum but in installments continuing throughout the period of need. It should so far as possible be definite in the amounts to be paid, and should bear a just relation to the amounts contributed."

The argument is often made that even if the employer pays the whole compensation, the worker contributes, first, through his physical suffering while injured; second, through the rate of compensation which is materially lower than the employe's regular income while at work. Several national systems have been adopted on this theory but it looks like greater wisdom and better policy to secure the worker's financial contribution and co-operation while he is well and to pay him the full equivalent of his lost earning capacity while injured.

This is the theory of the German system. Sixty-six per cent of the annual wage rate (300 days' full wages), which is ordinarily the highest compensation paid, is considered the full equivalent for complete disability, on the theory that the ordinary lay-offs, expenses of tools, work-

Equitable
Adjustment of
Contribution
and
Compensation

ing clothes, car fare, etc., while at work consume one-third of this annual wage rate.

Recognizing the necessity of the worker's co-operation, the German system places 17 per cent of the total accident insurance cost upon the workers.

Proportion of
Compensation
Borne by
Workers

Figure 17, which has been prepared under Prof. Manes' supervision, illustrates this contribution. Several other experts figure that the workers' contribution is less, but the definite amount matters very little here. It is the principle which is important. The contributory principle in the accident insurance system of Germany is carried into practice in a way which is sometimes misunderstood. The statement is sometimes made in this country that the workers do not contribute in Germany. This is erroneous. Up to the 14th week the injured worker receives his compensation, including medical attention, through the sick insurance fund. Sick insurance is obligatory the same as accident insurance, and is paid for two-thirds by the worker, one-third by the employer.

An important feature of joint contribution is the fact that it opens the way for meetings between workers and employers. It establishes a connecting link which, according to the experience of European, as well as American manufacturers, is of invaluable service in fostering harmonious relations between employers and workers.

Joint
Contribution
Fosters
Harmonious
Relations
Between
Employers
and Workers

The contributory principle is carried into practice in Germany not only in accident insurance, but in all social insurance, as shown in Figure 13 (Insert p. 49). Workers' contribution is recognized as just and important in the Swiss bill, which is expected to become a law during this

session of the Swiss Parliament. The bill also recognizes the propriety of government contribution to the accident compensation fund. The relative contributions from the three parties which is planned in this Swiss bill is shown in Figure 18. Swiss government insurance officials impressed us as being extraordinarily expert, even among the great specialists of Europe.

The Swiss bill is based upon the experience of other progressive nations. It proposes to cover all accidents, those occurring away from work as well as those occurring at work.

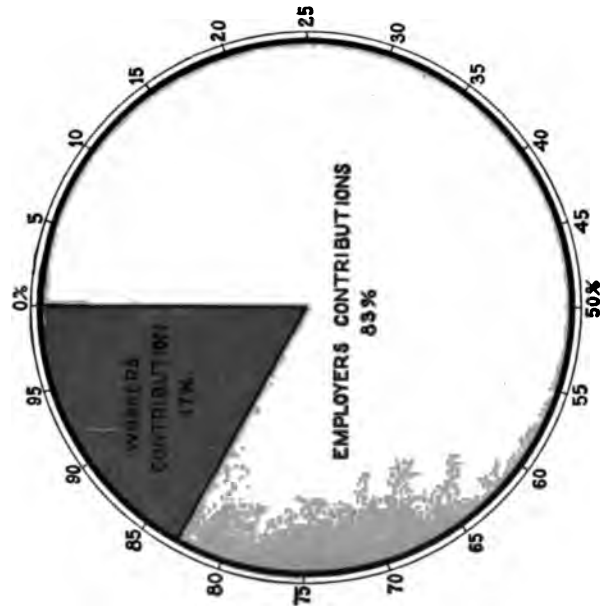
Workers'
Contribution
Endorsed
by most
German
Authorities

The advisability of workers' contribution to accident insurance funds, while questioned by a few, is recognized and endorsed by the large majority of German authorities and the efficiency of accident prevention, as well as the elimination of simulation and imaginary ailments, according to these authorities, is dependent to a very large extent upon workers' contribution. The extent to which the contributory principle is carried out in various European countries is evident from a study of Figure 4, page 14.

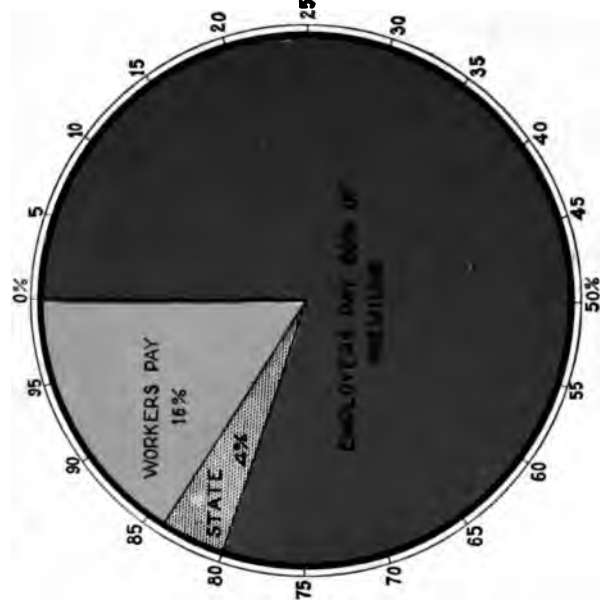
Representative
Powers of
Contributors

Another phase of the contributory principle as practiced in Germany needs exposition here. Contribution or taxation means representation. German workers paying 17 per cent of the accident compensation fund in return have representation (by election) in the arbitration courts, the appeal courts and the commissions which draft accident prevention regulations. Workers have no voice in the administration or management of the compensation funds. Socialistic labor leaders have been contesting for such representation for the political and other

FIGURES 17 and 18
THE CONTRIBUTORY PRINCIPLE



Mutual contributory principle in Germany



Mutual contributory principle as proposed in Switzerland

influence it gives them over the working class. Rather than give this representation German employers would pay the whole premium.

Sickness insurance, of which the workers pay two-thirds and the employers one-third, is almost entirely in the hands of Socialistic labor leaders. This control is so obnoxious to the government and to the majority of the employers that a larger contribution (50 per cent instead of 33 per cent) and a proportionately larger percentage of representation is planned for the employers now.

Socialists
Control
Sickness
Insurance

CHAPTER FOUR

**Obligatory Insurance an Important Factor in Accident
Compensation—Various Forms of Insurance,
Mutual Insurance, Statistics, Scientific
Inspection, Litigation**

CHAPTER IV

OBLIGATORY INSURANCE AN IMPORTANT FACTOR IN ACCI- DENT COMPENSATION—VARIOUS FORMS OF INSUR- ANCE, MUTUAL INSURANCE, STATISTICS, SCIENTIFIC INSPECTION, LITIGATION

Many European nations, and among them Germany, long ago learned that the creation of a right of recovery which cannot be realized is of no practical value, and that insurance alone can guarantee compensation to all injured workers, without respect to the financial responsibility of the employers. The conditions created by the injury of a wage earner whose family is dependent upon his support are no different whether he works for the largest corporation or the smallest individual employer.

The small employer is a much more serious factor in this problem than is generally understood. In many of our interviews with large and small employers in Germany, and in many of the letters, numbering one hundred or more, which we have received from presidents of Ger-

Insurance
the best
Guarantee
of
Compensation

man employers' associations, the importance of providing for the small employer and his one, two or three workers, is emphasized.

Average
Ratio of
Employers to
Workers

The latest estimate indicates that in Germany 66 industrial employers' associations cover 696,824 employers with 7,868,531 workers, making an average number of workers per employer of 11; while 45 agricultural employers' associations cover 5,434,000 employers with some 17,000,000 workers. Average number of workers per employer, 3. Several authorities have given it as their opinion that more than 50 per cent of the wage workers of the country are employed in small places, where an accident verdict of from \$5,000 to \$10,000 would mean bankruptcy to the employer, and, as a consequence, loss of part or all compensation to the injured worker.

The Small
Employer
a Prominent
Factor

Our attention has been called to the fact that before the inauguration of the present system even the cost and worry of law suits for accident compensation proved disturbing, and oftentimes destroying, factors to the small employer. Destruction of the small employer usually means no compensation for the injured worker, leaving him and his dependents charges upon the community. For this reason, the German system does not place the burden of compensation upon the individual employer. It places it upon the industry, that is, upon all employers of each industry. For illustration: All the flour mills of Germany must contribute toward a fund, out of which is paid a fixed compensation for each flour mill accident. The originators of the German system reasoned that only

by *universal* and *collective* action could lasting beneficent results be secured. It would not do to cover only certain industries or certain localities. The system must cover practically every employer and every wage worker in every part of the country, and the individual financial responsibility of the employer must be entirely eliminated from the system.

Extended
Collective
Action most
Beneficial

This, of course, means compulsory insurance. Under the German law every employer must belong to the organization of his craft, and to these employers' associations is given the necessary legal power to raise funds based upon the hazard of the industry, as well as the prevention efforts of each particular shop. Assessments are made by carefully trained scientific boards of experts, much the same as in our mutual fire insurance companies.

Many countries have adopted the compulsory insurance plan, as may be seen at a glance from Figure 3, page 13. The sentiment in favor of such a system is spreading rapidly. Most countries give the employer the privilege of insuring either in mutual companies, stock companies or state institutions. Germany and Austria compel insurance in mutual concerns. Experts in these countries have told us that no other compensation insurance would work satisfactorily. We are by no means going to this extreme, but we feel that the better informed an employer is on compensation insurance details, the better will be the result. Close co-operation must exist between insurance companies and employers' associations, so that the experience of practical employers

Growth of
Compulsory
Insurance

will be at the disposal of insurance concerns, and vice versa. Only in this way can prevention efforts of each insured employer bear the greatest possible weight upon insurance rates and the experience of the best prevention experts be placed at the disposal of the insured at all times.

It is not enough to appeal to the motives of humanity among employers. They must see that it is a business proposition for them to invest in safety appliances.

Co-operative
Insurance
Decreases
Cost

Mutual compensation insurance by industries might be found as advantageous as is mutual fire insurance by industries. Most of us know that the rates of fire insurance have been reduced as much as 75 per cent in some establishments by the adoption of the mutual principle and the selection of risks. That a similar showing can be made in accident insurance is proven. As an illustration: Commercial travelers were considered a hazardous risk years ago, and had to pay \$25 to \$35 annual premiums for accident insurance. By establishing commercial travelers' mutual insurance this premium rate has been reduced to an average of \$7.74 per year for twenty-seven years. However, it would be a most serious mistake for us to endorse mutual accident compensation insurance in too broad a way.

Compensation insurance will have a hard period before it can come down to equitable standard rates. Competition is going to play havoc with insurance rates, just as it has in England, and unscrupulous promoters are going to take advantage of the fact that a final accounting in

accident insurance cannot be brought about in less than fifty years. That is such a long time that the promoters can make money and get out, leaving the insured employers and workers to hold the bag. The strictest kind of insurance laws and the closest kind of scrutiny on the part of employers will only lessen, it will not eliminate, this danger.

Strict Insurance Laws and Close Scrutiny by Employers Requisite

The establishment of mutual fire insurance has stimulated the fire insurance business, and the establishment of mutual compensation insurance will stimulate compensation insurance business in a similar way. As long as the end is assured the employer should be given all possible freedom in selecting his insurance. The success of a system and the interest of all concerned, demand that every method which can be provided for compensation shall definitely assure the compensation to the injured worker when it becomes due.

Statistics

Scientific prevention and insurance are impossible without accurate statistics. We have discussed this, and also the lack of such statistics in the United States, but we want to call attention to the fact that almost any sort of information can be gathered from the German statistical tables. Efforts to increase efficiency or reduce risks and to base the rate of contribution upon the exact ratio of risk, are constantly made by trained experts. The following figures indicate this tendency.

Necessity of Accurate Statistics

Figure 19 points out the frequency of *industrial* accidents according to days and hours. Please note that between the hours of 9 A. M. and 12 M. and 3 and 6 P. M. there are the greatest number of accidents, also that more accidents occur on Monday and Saturday than on any other week day. If we give credit to the general belief that the great percentage on Saturday is due to the fatigue of the workers, we may also be compelled to infer that a similar fatigue exists among workers on Monday morning.

FREQUENCY OF INDUSTRIAL ACCIDENTS ACCORDING TO DAYS AND HOURS.

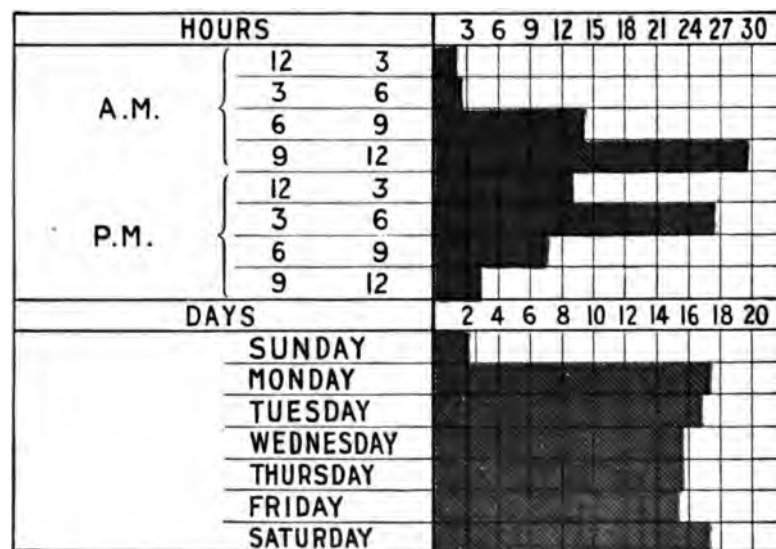
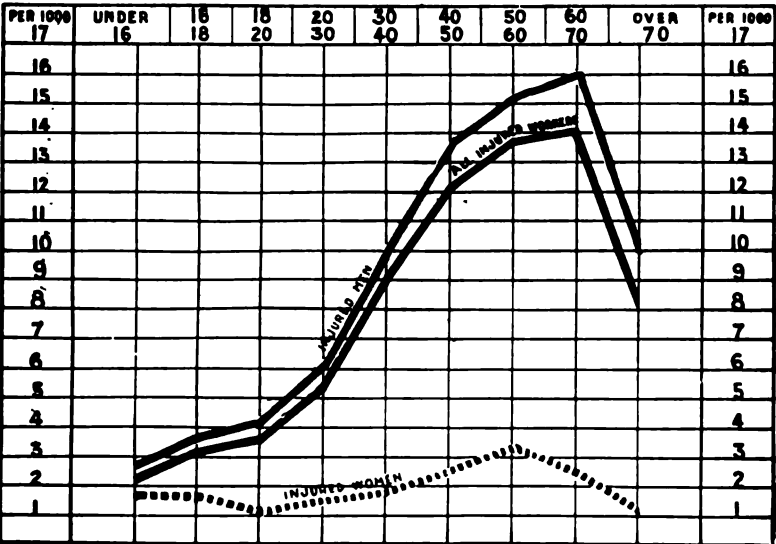


Figure 20 indicates the frequency of industrial accidents according to age and sex. Please note in this and the following diagram the increased hazard in all occupations due to age. Several countries have had sad experiences in barring older men from employment on account of their greater liability to accidental injury. Under the German system there is no such disadvantage, and we should see to it that there is none in our country. Another lesson pointed out in this chart is the low rate of accidents to women workers as compared with men in the industries.

FIGURE 20
FREQUENCY OF ACCIDENTS ACCORDING TO AGE AND SEX

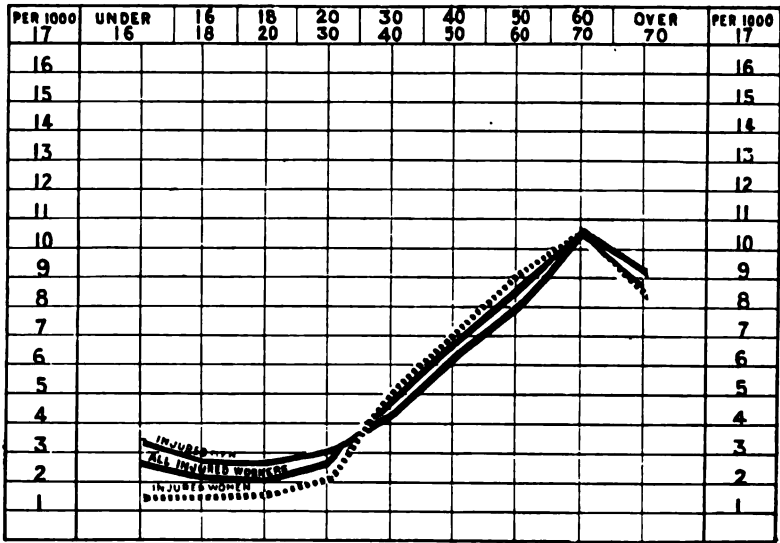


Industrial workers.

Agricultural
Accidents
According to
Age and Sex

Figure 21 pictures the frequency of *agricultural* accidents according to age and sex. Please note that the rate of accidents to women workers is higher here than the rate of accidents to men, illustrating the fact that accident compensation, insurance and prevention have as large a field on the farm as in the industries.

FIGURE 21
FREQUENCY OF ACCIDENTS ACCORDING TO AGE
AND SEX

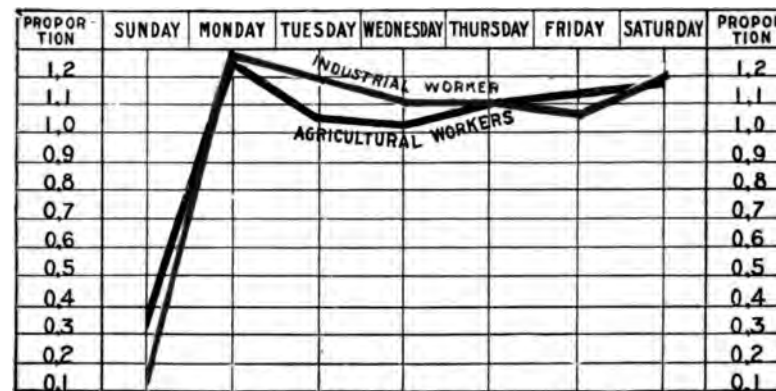


Agricultural workers.

Comparison of
Industrial and
Agricultural
Accidents

Figure 22 compares frequency of accidents according to days of the week for industrial and agricultural workers. Please note that farmers are suffering from the same fatigue which characterizes the industrial workers on Saturday and Monday.

FIGURE 22
FREQUENCY OF ACCIDENTS ACCORDING TO DAYS
OF THE WEEK



Comparison of industrial and agricultural workers.

Scientific Inspection

A scientific but practical inspection system is probably one of the greatest requirements for a proper solution of this problem. A thorough factory inspection system is a very important part of the German accident prevention and insurance system. There are two kinds of inspectors—government inspectors and employers' association inspectors. The duty of the former is principally to see that working conditions are in keeping with the law, while the duty of the latter is chiefly to see that those conditions conform to the regulations of employers' associations. But a very important duty of both classes of inspectors is to study working conditions, determine hazards and make suggestions to the administration officers. To this end specialists of high grade are employed principally by employers' associa-

Scientific
Factory
Inspection
an Essential

Two Classes
of Factory
Inspectors

tions, and in many cases these men devote their whole lives to a study of the hazards of a particular industry. It is the specialization and the certainty of remaining in a chosen line regardless of political or administrative changes which make the German inspection system so efficient. New men entering this profession must start with a thorough theoretical and practical education. They must be graduates of engineering colleges, and are often placed in subordinate positions with little pay for years, before they are promoted to posts of real responsibility. There is no connection between state or national politics and appointments of this kind.

The following concise statement bearing on this subject was prepared for us by Dr. Konrad Hartmann, Professor of Preventive Engineering and the highest government authority on such subjects in Germany:

“All factories in the German Empire are inspected both by officials of the State Boards of Inspection and by experts in the employ of the employers’ association.

“The State Boards of Industrial Inspection derive their authority from the governments of the Federal states. Their principal function is the enforcement of the imperial laws governing industrial affairs and of the special rules and regulations enacted by the Federal Council or the authorities generally for the protection of German workingmen. These State Boards of Inspection deal principally with the prevention of accidents; they inspect and supervise steam boilers and plants requiring special licenses, they investigate the working con-

Duties of
Government
Inspectors

ditions of women and children and look into questions affecting factory hygiene, night and Sunday work, wages and hours of employment.

“The members of these State Boards of Inspection are state officials. Before being appointed, they must attend technological institutes for three years and study law and national economy for another year and a half. Two examinations are required of them, one covering their knowledge of engineering or chemistry, and the other one covering practical experience of one and a half years’ service to the Board in a minor capacity. After passing these two examinations, they become so-called ‘industrial assessors’ and subsequently inspectors, to each of whom is assigned a certain district. In the course of time the inspector becomes what is called an ‘industrial counsellor’ and is then considered a government official. Last year the State Boards of Industrial Inspection employed 488 inspectors, among whom there were 29 female assistants. To this number must be added 114 special mine inspectors. Both the factory and mine inspectors render annual reports which are published.

Educational
Requirements
for Government
Inspectors

“The employers’ associations are organized for the purpose of operating (under the supervision of the imperial government) the compulsory accident insurance system to which all employers are subject in Germany. These associations are authorized to prescribe accident prevention measures for the plants within their jurisdiction and to engage the necessary inspectors for their enforcement. These

**Requirements
for Employers'
Associations'
Inspectors**

inspectors must be trained engineers and, as a rule, men with a college or university education are chosen. About 340 inspectors are employed by the employers' associations at the present time. Agriculture has no adequate system of supervision or inspection as yet, but such a system will be established in the next few years. Annual reports are rendered by the experts of the employers' associations concerning their work. These reports are published and contain a great deal of statistical and other information concerning the science of accident prevention.

"This two-fold system of factory inspection has so far caused no friction or abuses of any kind. This for the reason that the large number of plants to be inspected makes it impossible to visit any particular concern more than once a year and the requirements of the State Boards of Inspection and of the employers' associations are practically uniform."

**Excellence of
German
System
Due to
Efficient
Inspection**

As already mentioned, the efficiency of the inspection department and the personnel thereof account in a large measure for the high standard of the whole system, and for the absolute reliability of statistical records. On this point Mr. Frederick K. Hoffmann, statistical expert for the Prudential Insurance Company in the United States, is quoted as follows:

"I do not hesitate to say, without fear of contradiction, that a single report of a technical supervising official in any branch of the German industry contains more matter of real determining and vital importance than all the reports which have ever

been made under our inadequate system of factory inspection."

We are confident that Mr. Hoffmann's statement is not intended as a reflection upon individuals—no more so than our argument. It is the system and not the men that must be attacked and changed.

Litigation

The shortcomings of our present laws in antagonizing harmonious relations between employers and workers are too well known to need lengthy explanation. Every employer of experience is aware that in nine cases out of ten any kind of settlement with an injured workman under our present laws is unsatisfactory. It is more or less a gamble. The relations of employer and employe often are transformed into personal dislike, or even hatred, during damage suits and this feeling leaves a lastingly bad influence, sometimes through a whole establishment. There is no gamble in the German system, and even in controversies which arise regarding compensation the individual employer's interest is not opposed to that of his injured worker. In fact, he is usually very much interested in seeing that his worker receives a fair deal at the hands of his employers' association. Let us point out the regular method which is provided for determining compensation.

Relations
Between
Employer
and Employe
Under German
System

The first step is the decision of a regular commission consisting of members of an employers' association. Every case of injury lasting more than 13 weeks must be

Compensation
for the First
13 Weeks

referred promptly to these commissions. We have already explained that during the first 13 weeks the injured person receives medical treatment and financial and other benefits from the sickness insurance fund, to the cost of which the employer pays 33 per cent and the worker 66 per cent. The award is promptly transmitted to the injured worker in writing on regular blanks, which have printed on them in black type a notice to the effect that if the award is not satisfactory to the injured or his dependents it can be appealed within one month, free of cost, to one of the regular arbitration courts, which becomes the second step of the legal process. These courts consist of a regularly appointed judge, who has had special training for this class of work. He, with two employers elected by the employers of the district, and two wage workers elected by the wage workers of the district, make a jury of five experts. The employers and workers are taken from the industries in which the accident has happened. In other words, for agricultural accidents two employing farmers and two farm hands serve with the judge, while in the machine trade two machine manufacturers and two workers engaged in that trade serve with the judge. A majority decision, that is, three out of five votes, fixes the status of the appealed case.

German
Mode of
Determining
Amount of
Compensation

We attended two arbitration court sittings. The regular judge with his associate commissioners of employers and wage workers tried from 20 to 22 appealed cases in two and one-half to three hours. There was no hurry, a remarkable absence of formality, a thoroughness and a

serious common-sense endeavor to get at the facts, which made a much more favorable impression upon us than the numerous damage cases which we have seen tried in our courts. An experienced doctor was present to assist the court in matters requiring medical knowledge. In many cases a medical examination was made in the court room. Both sides to a controversy have the privilege of representation through counsel, but the authority of the judge and of the jury is so great that practically no advantage can be secured by introducing technical questions. The fact that the total litigation expenses amount to only 1.2 per cent of the insurance premiums indicates that the system is thoroughly efficient. This amount, however, does not cover that part of the court cost which is borne by the state.

The award of the arbitration court is transmitted to both sides, but in important matters this award can be appealed to a court of last resort, which is called a "Senate." Such a Senate consists of a chairman, always a jurist, appointed by the Imperial Insurance Department, two technical experts of the same department, two judges of regular courts and one employer and one employe, a total of seven men. There is no appeal from the decision of this court, but in case two such Senates render decisions which seem to establish different precedents, there is a provision for an enlarged Senate, or two Senates meet jointly and can overrule either one or both decisions.

Only
Important
Cases
are Appealed

The time required from the first decision to final ruling is said to be never more than a year, and more often

only from four weeks to four months. During the period pending final decision part compensation is paid in all deserving cases. That the compensation awards are reasonably just is evident from the comparatively low percentage of changed decisions, as shown in Figure 23. In every one of the 42 cases which we saw transacted the decision of the five men was unanimous.

FIGURE 23
DISPUTED COMPENSATION CLAIMS

104,298 APPEALS BY EMPLOYEES TO ARBITRATION COURT	24.7 %
83,781 APPEALS DECIDED IN FAVOR OF EMPLOYERS BY ARBITRATION COURT	19.85%
20,517 APPEALS DECIDED IN FAVOR OF EMPLOYEES BY ARBITRATION COURT	4.85%
19,634 SECOND APPEALS TO SENATE (COURT OF LAST RESORT) BY EMPLOYEES	4.64%
5,600 SECOND APPEALS TO SENATE (COURT OF LAST RESORT) BY EMPLOYERS	1.32%
14,701 CONFIRMATIONS OF ARBITRATION COURT BY SENATE	3.48%
5,066 DECISIONS OF ARBITRATION COURT CHANGED BY SENATE	1.2 %
TOTAL CHANGES BY ARBITRATION COURT AND SENATE FROM EMPLOYERS' ASSOCIATIONS' VERDICTS	4.5 %

German
Arbitration
Courts
Fair and
Impartial

A feature which struck us very forcibly in watching the work of the German arbitration courts was the fact that in several cases small employers appeared in behalf of their workmen, endeavoring to secure the highest rate of compensation consistent with justice. However, in each case the employer's argument seemed to avail nothing before the fair and impartial court. While the result was not in the slightest degree influenced by the em-

ployer's friendly feeling toward his injured workman, it was a decided contrast to the usual attitude of employer and worker before our courts in damage suits.

The importance of single liability is recognized in Germany. While it is possible to sue an employer for heavier damages than those awarded under the automatic compensation act in cases of criminal carelessness, such suits are unknown. Neither in insurance rates nor in any other phase of the insurance system is any other obligation considered than that established under the Compensation Act.

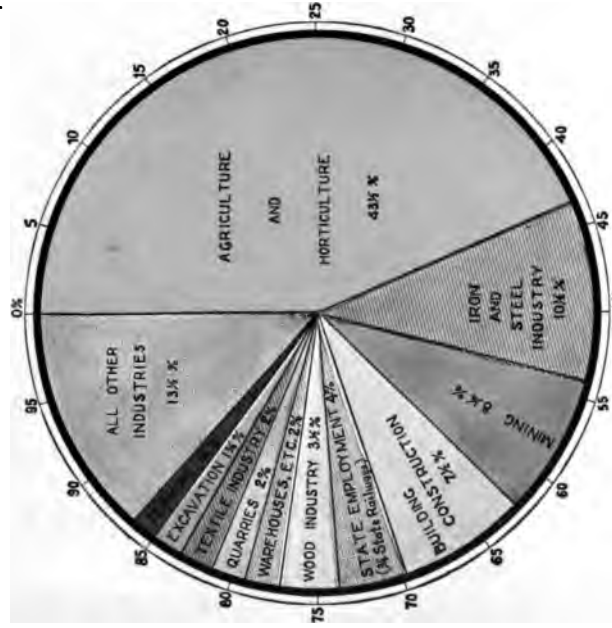
Importance of
Single
Liability

CHAPTER FIVE

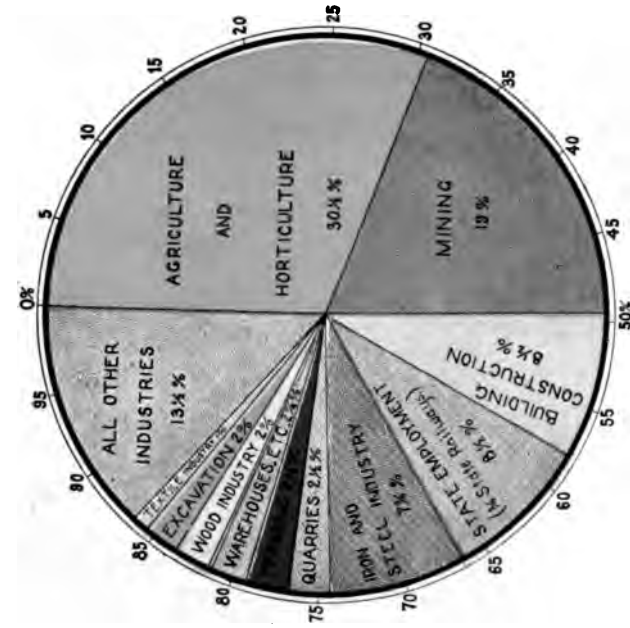
Hazardous Occupations—Comparative Hazard of
Industry and Farm



FIGURES 24 and 25
COMPARATIVE HAZARD OF INDUSTRY AND FARM
IN GERMANY



Total occupational accidents in 1908, of a duration of more than thirteen weeks



Deaths caused by occupational accidents in 1908

CHAPTER V

HAZARDOUS OCCUPATIONS—COMPARATIVE HAZARD OF INDUSTRY AND FARM

Statistical records compel a readjustment of our conventional notions as to the comparative hazard of various employments. A number of our states have expressed in their laws, or contemplated laws, the opinion that there are among the regular trades certain very dangerous ones, and that if these trades are covered by obligatory compensation for accidents, the problem will be nearly settled. We have heard this sentiment expressed very strongly by some of the framers of the New York law. The building trades, for illustration, are classed in this category in the state of New York. We have had five charts prepared from the statistics of the German empire, which tell a surprising story.

A New
Classification
of Hazards
Necessary

Figure 24 analyzes the total number of accidents.

Figure 25 shows the comparative number of total and permanent disability cases.

Figure 26 analyzes all cases of permanent and complete disability.

Figure 27 deals with partial permanent disability.

Figure 28 analyzes temporary disability.

FIGURE 27
PARTIAL PERMANENT DISABILITY
CAUSED BY OCCUPATIONAL ACCIDENTS
IN 1908

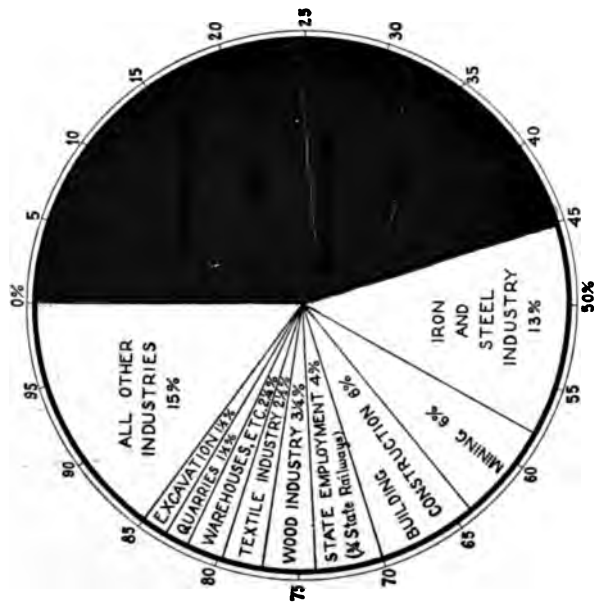


FIGURE 26
PERMANENT AND COMPLETE DISABILITY
CAUSED BY OCCUPATIONAL ACCIDENTS
IN 1908

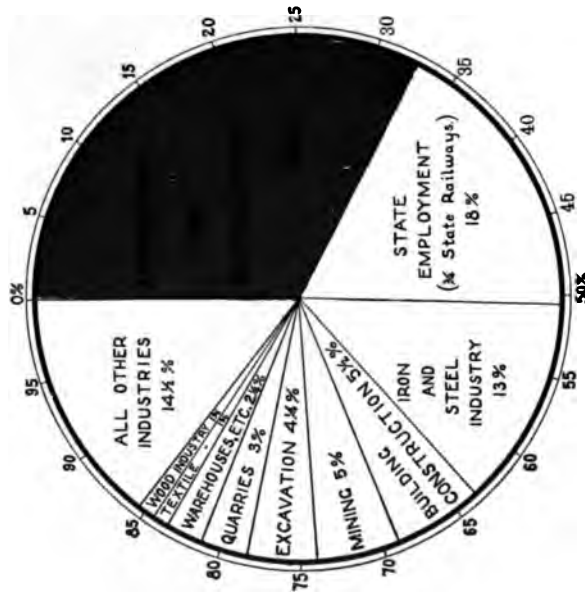
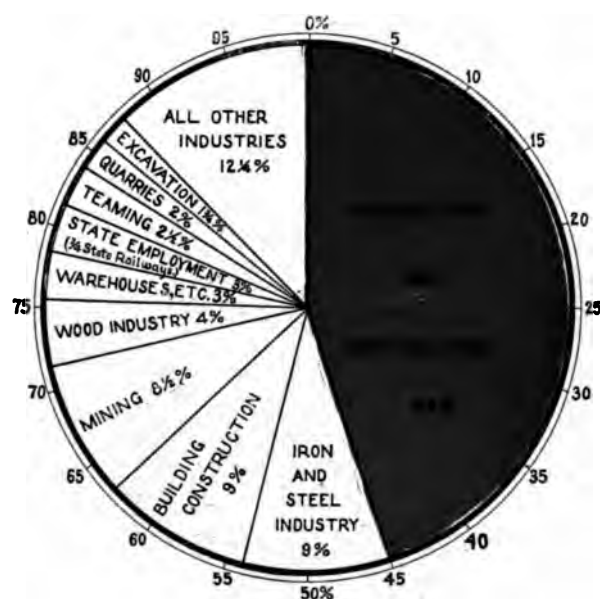


FIGURE 28
TEMPORARY DISABILITY CAUSED BY OCCUPATIONAL
ACCIDENTS IN 1908



All these data are based upon statistics for the year 1908, which do not materially differ from former years except that they show a reduction in the proportion of farm accidents to those of other occupations.

After studying these charts it would seem of little use to construct laws or adopt systems which do not cover the farmer. He stands first on each of the five charts

The Farmer
& Factor in
All Accident
Systems

charged with 43.5 per cent of the *total* number of injured; 30 per cent of the *total* number of dead; 32.5 per cent of the *total* number of permanently completely incapacitated; 45 per cent of the *total* number of permanently partly incapacitated and 45 per cent of those temporarily incapacitated.

Comparison of
Accidents in
Agricultural
and Building
Industries

Compare this with the building industry which contributes 7.5 per cent, 8.5 per cent, 5.5 per cent, 6 per cent and 9 per cent, respectively, of the various degrees of injury, and it becomes evident that accident prevention, compensation and insurance has as large a field on the farm as it has in the industries. We do not want to be understood as asserting that there are more injuries per thousand among farm workers than there are in the more hazardous industrial callings, but even here the farmer shows up fairly high, as is evident from a study of Figure 1 (frontispiece). This chart, entitled "Frequency and Results of Accidents," is a translated reproduction of one of the most important official tables of the Imperial Insurance Department. It is well worth very careful study. Prof. Dr. Manes places the number of injured farmers per thousand insured at a lower figure than is shown in this official table, but the importance of covering farm workers is not lessened, even if the rate *per thousand* is reduced by one-half. To safeguard the greatest number of human beings and to compensate the greatest number of injured workers must be the basis for action, and a system which excludes 43.5 per cent of all injured workers cannot be called just or progressive.

The importance of covering the farm workers is further evidenced by a study of records of former years. At the beginning of the accident insurance period in Germany the same erroneous impression existed there as to the relative hazard of industrial and agricultural work which now exists in this country. Statistical records for a few years brought a change in Germany, as is shown by the following statement from the official insurance record of the year 1902:

Agricultural
Hazard must
be Considered

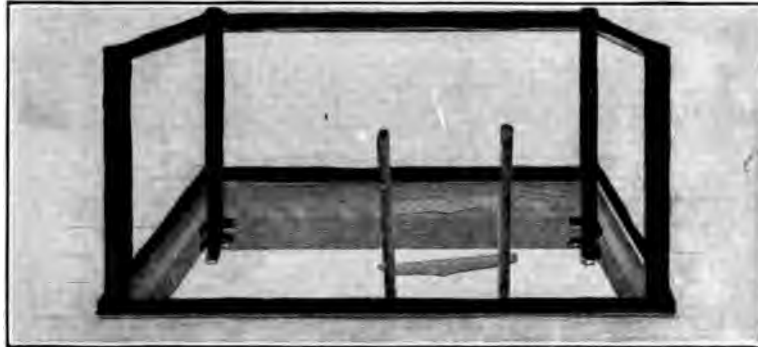
"It was formerly believed that agricultural pursuits were comparatively free from accidental injury. The enforcement of the compensation law of 1886 has proven this view erroneous. The statistics for 1901 show that the 48 agricultural employers' associations of Germany during this one year have had to compensate 56,039 injured workers, which is 540 more than are charged against the 65 industrial employers' associations for the same period."

What German statistics have proven regarding the hazards of farming every other country which has given this subject attention, has found to be correct only it is more difficult to prove elsewhere because of lack of reliable information.

Germany was not slow to call attention to farm accident statistics, as may be seen from the following illustrations and figures copied from official German records. The result is a decrease in the number of farm casualties from more than 50 per cent of the total casualties of the empire in 1902 to 43.5 per cent in 1908.

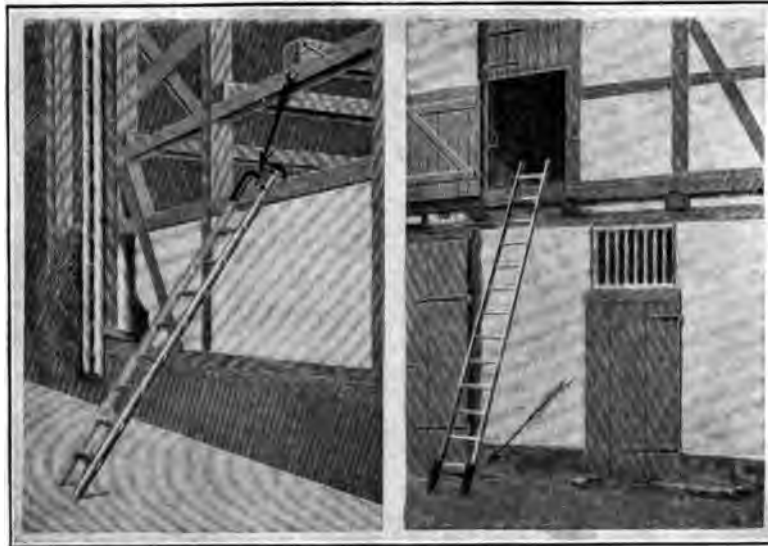
Decrease in
Farm
Accidents in
Germany
.

FIGURE 29



All dangerous parts of apparatus and all safety devices are painted red to attract workers' special attention.

FIGURE 30



14,945 accidents, including 632 deaths, among farm workers are caused by falls from ladders, out of haylofts, etc., during one year.

FIGURE 31



Dangerous animals must be guarded.

FIGURE 32



19,143 injuries, including 1,180 deaths, among farm workers are caused by animal bites and kicks during one year.

FIGURE 33



Farm wagons must be equipped with safety appliances.
Agricultural teaming is responsible for 10,486 accidents in one year.

FIGURE 34

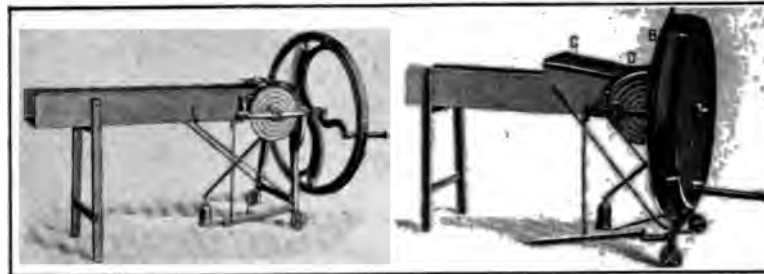


Illustration to the left shows the safe loading of timber.

Illustration to the right shows the proper method of fastening logs during hauling, and calls attention to proper condition of brakes for lumber wagons.

5,718 accidents among farm workers are caused in one year while cutting and hauling timber.

FIGURE 35



Feed cutting machine without and with safety guards.

1,777 accidents, including 17 deaths, caused by feed cutting machines in one year.

FIGURE 36



Threshing machine without and with safety devices.

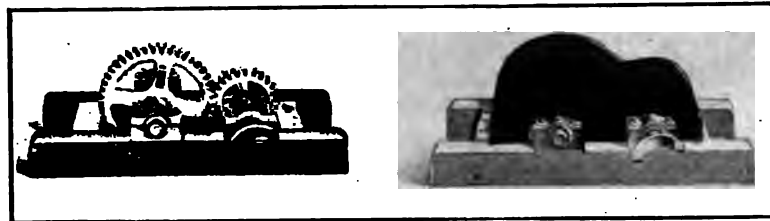
Threshing machines are responsible for 1,296 accidents (44 deaths) in one year.

FIGURE 37



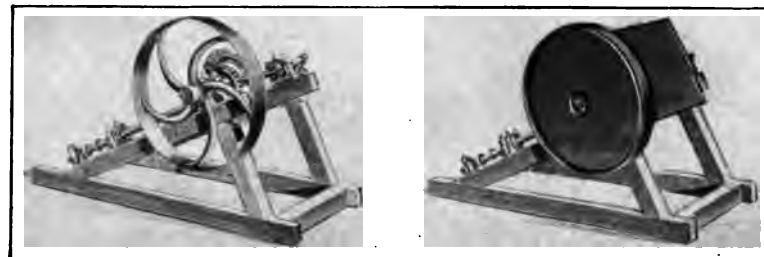
Farmers' horse power mills must be properly safeguarded. Responsible for 203 accidents in one year.

FIGURE 38



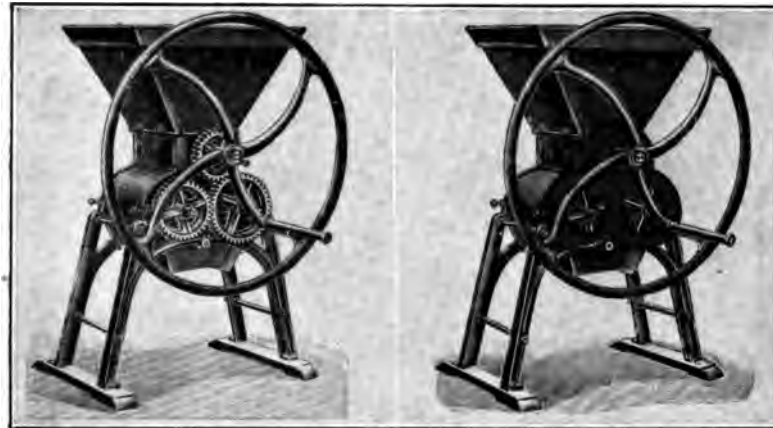
Farmers' power transmission machinery, without and with safety covering.

FIGURE 39



Farmers' power transmission machinery is responsible for 353 accidents, including 39 deaths, in one year.

FIGURE 40



Farmers' cider mill with and without safety covering for gears.

There is every reason to believe that the hazard of the farm as compared with the industries is even greater in the United States than it is in Germany. First, because there is more pioneer farming which is necessarily more dangerous, and second, because the use of farm machinery is much more extensive among farmers in the United States than in European countries.

Agricultural
Hazard in
Germany
Less than
Here

A recent statement of Mr. Walter Drew of New York, on this subject is convincing and to the point. He says:

“And why should not agriculture be the most dangerous of all employments? A farm worker drives teams, uses explosives, handles machinery of all sorts, both in and out of doors, acts as carpenter, wood-cutter, painter, and as a general ‘Jack

of all trades.' His work and his driving to market take him across railroad tracks, in and around cars, freight elevators, etc. There is scarcely a risk applicable to any dangerous trade that does not fall to him at one time or another, and added to all this, and especially so far as the use of tools and machinery is concerned, he is not specially skilled or trained, and has to work in company with other men who are likewise more or less unskilled.

Compensation
Measures
will Attract
Farm Labor

"Consumption of agricultural products in this country has increased 60 per cent in the last ten years, and production has increased but 30 per cent. One of the most important of our present problems is to encourage labor to seek the farm. Is there any reason, in justice, why liability acts or compensation measures should not protect the farm worker, and is there not every reason, from the standpoint of national industrial well-being, why the farm worker should be equally protected with other workers, and every possible objection to farm work removed?"

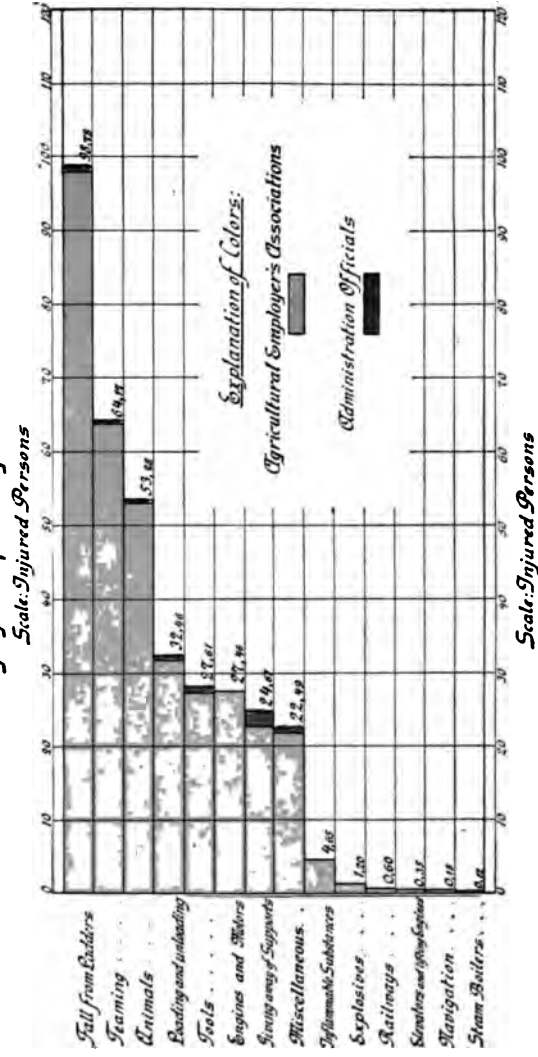
A study of hazardous occupations would be incomplete without analyzing all occupations with the view of learning the particular kinds of work which are responsible for most accidents.

Figures 41 and 42, the one analyzing farm activities and the other one industrial activities, are full of surprises. Note that falls from ladders are by far the most serious cause of accidents; they stand first in the farm

FIGURE 41

Cause and Frequency of Accidents analysed according to Occupations
1908

(Number of injured Persons per 100,000 insured)



Agricultural and Horticultural Workers Accident Insurance

Standard in Berlin, Germany



list, charged with 99 accidents per 100,000 insured workers, and second on the industrial list, charged with 143 accidents per 100,000 insured workers. Teaming, loading and unloading, and machinery come next in importance and steam boilers rank last on both lists.

Comparative
Statistics

CHAPTER SIX

**Prevention of Accidents—Cause and Cure of Injuries
European Safety Museums (Accident
Prevention Institutions)**

CHAPTER VI

PREVENTION OF ACCIDENTS — CAUSE AND CURE OF INJURIES

EUROPEAN SAFETY MUSEUMS (ACCIDENT PREVENTION INSTITUTIONS)

In line with the official declaration of the National Association of Manufacturers, Germany places prime importance upon accident prevention. Very complete statistical figures kept for 25 years have intensified interest in and action on this subject to such a degree that it can well be called a national problem. For the recent 25th anniversary celebration commemorating the beginning of workers' accident compensation insurance, five splendid volumes, each of very liberal size, were devoted to the subject of accident relief, and nine-tenths of all dealt with prevention. One volume was prepared by the Imperial Insurance Department, one by the industrial employers' associations, another by the agricultural employers' associations, one by the Society of Prevention Engineers, and one by the medical fraternity.

Importance of
Accident
Prevention

That from a humane viewpoint accident prevention is not only desirable but absolutely necessary requires no argument; that it pays as a business proposition can

be demonstrated from German statistics. The translations of numerous letters from German employers, mostly presidents of the organizations of their crafts, are quoted in the Appendix. All agree that accident prevention is a paying investment. From the letter of Dr. Kaufmann, president of the German Insurance Department, we quote:

"The wisdom of giving employers' associations all possible freedom of action becomes especially evident in * * * accident prevention. * * * Recognizing that it is of prime importance to prevent injury, since compensation will never replace a father who has been killed or make up for lost limbs, state officials and officers of employers' associations have concentrated their combined energies upon prevention, and wonderful have been the results. Scientific accident prevention is now recognized as a special and important branch of technical engineering.

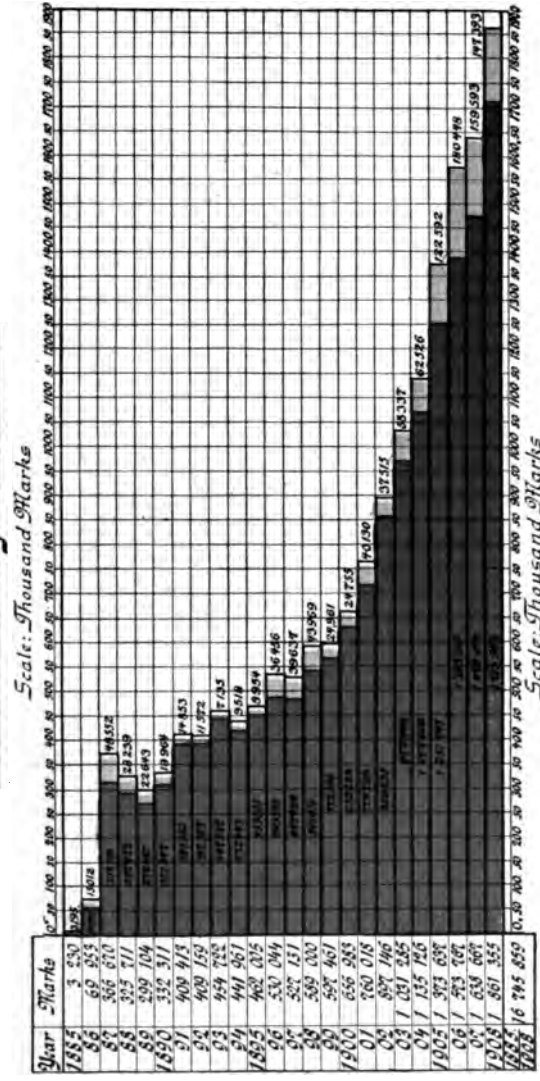
"Invention and prevention have gone hand in hand in this work as advance agents of civilization. * * * The workers' lives preserved mean maintenance and increase of our national resources and give plentiful returns for the heavy financial burdens which social insurance places upon our economic structure."

Dr. Spiecker, president of the Siemens & Halske Company, and chairman of the League of German Employers' Associations, which practically means the most important employer in Germany, writes us as follows:

"Twenty-five years have changed 'obligatory results' to 'voluntary performance.' Today every-



Accident prevention



Inspection and management

Explanation of colours:

Premiums for meritorious life saving devices, etc.

Bearbeitet im Reichs-Versicherungsamte.

body who views the situation without prejudice must acknowledge, and does acknowledge, that the task of the employers' associations in this field (prevention and compensation) is a great blessing, not only to the workers but to the industries and the nation. It is perfectly evident today that we have secured higher efficiency in our industries, due to increased workers' efficiency, all brought about by relieving our workers from worries and distress on account of sickness, injury, superannuation and invalidity."

Changes
in the Past
25 years

Under "Prevention" should be carefully considered prompt and expert medical help, which has been discussed in Chapter III.

A chart showing the growth of official expenditures in the direction of accident prevention during 25 years is shown in Figure 43, but it must be understood that the sum of \$4,250,000 shown in this chart is only a very small part, probably less than 10 per cent of the total amount expended for prevention. It covers only supervision of the prevention system. There is no official record of the many millions which have been expended by employers' associations and by individual employers for accident prevention, but it is reasonable to believe that it follows in a general way the lines of Figure 43.

Cost of
Accident
Prevention

The spirit which enters into this problem is best illustrated by the fact that in addition to the systematic work carried on by the state, employers' associations and individual employers, a large fund was raised a few years ago by voluntary subscription among employers and the general public for the special purpose of stimulating and

promoting accident prevention through investigation, education and invention. The occasion for the establishment of this fund was the Silver Wedding of the German Emperor. He, with the best men of the nation, believes that a monument of this sort is of greater lasting value than marble or bronze. What a wonderful opportunity exists in this direction for some of our American philanthropists!

Progress
not
Rapid

It has been stated by men who are supposed to be more or less familiar with conditions in our country that half of our accidents are preventable. One would draw the natural inference from such a statement that five or ten years' systematic accident prevention will reduce the number of injuries 50, or at least 25 per cent. There is no such favorable record in Germany after 25 years of persistent effort. German experts tell us that it requires from 10 to 15 years to get a fair start, that it takes that many years to stop the natural tendency toward increase in percentage of accidents. Germany's statistical record can best be consulted on this point by separating the agricultural employers' associations from the industries. Agricultural records, which for many reasons are not in as good form for detailed research as are industrial records, show 16 per cent improvement in percentage of accidents in 10 years. For the first 15 years the number rose constantly.

Industrial employers' associations have very complete and exact records, which prove that the machine hazard (the number of accidental injuries caused by machines), which are most susceptible to prevention efforts, have been

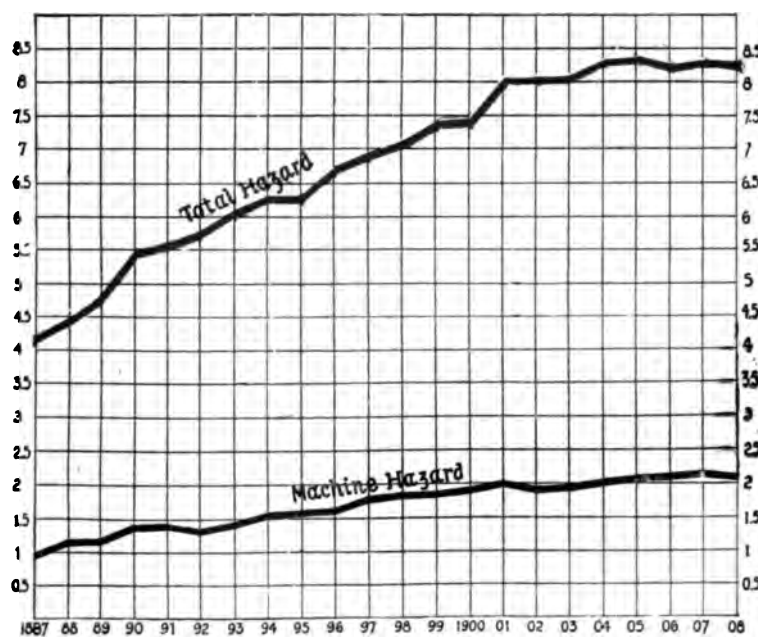
checked very materially, while the total hazards of industries have increased rapidly.

An analysis of 25 years' records of various industries was made by the German Society of Prevention Engineers recently, from which we print a few charts in the following pages. German engineers point out that safety appliances cannot be made which will prevent human recklessness or carelessness.

Changes in
Proportion of
Accident
Cases in
Past 25 Years

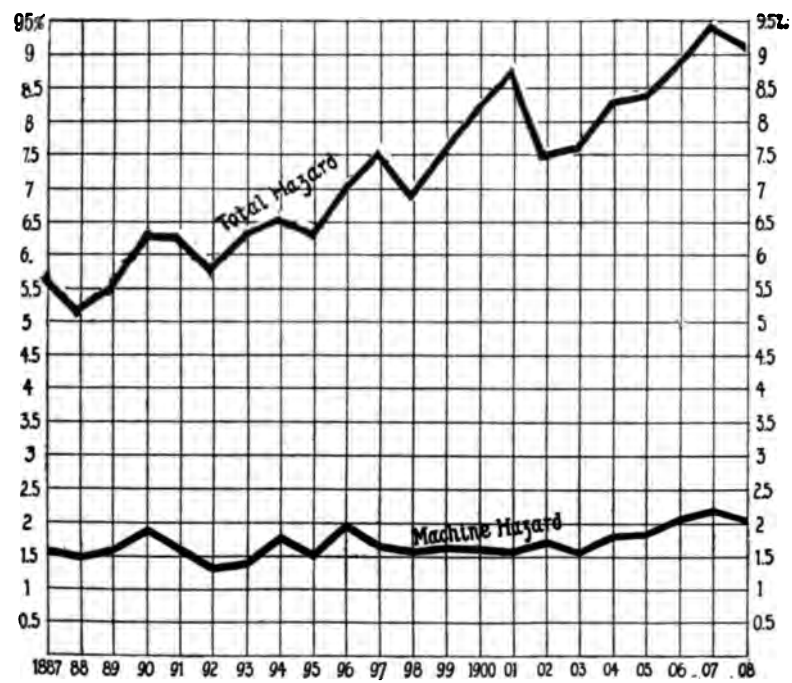
FIGURE 44

**TWENTY-ONE YEARS' ACCIDENT PREVENTION HISTORY
FOR ALL GERMAN INDUSTRIES COMBINED**



Number of injured workers per one thousand insured workers.

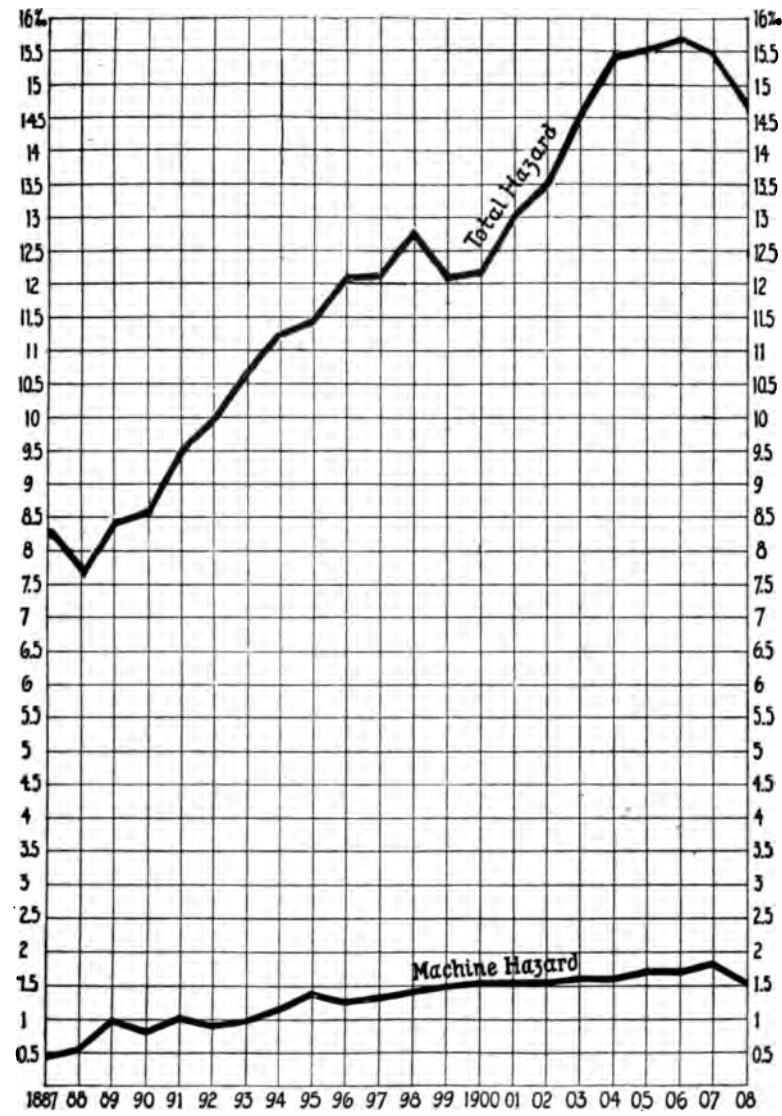
FIGURE 45

TWENTY-ONE YEARS' ACCIDENT PREVENTION HISTORY
IN THE CHEMICAL INDUSTRY

Number of injured workers per thousand insured.

FIGURE 46

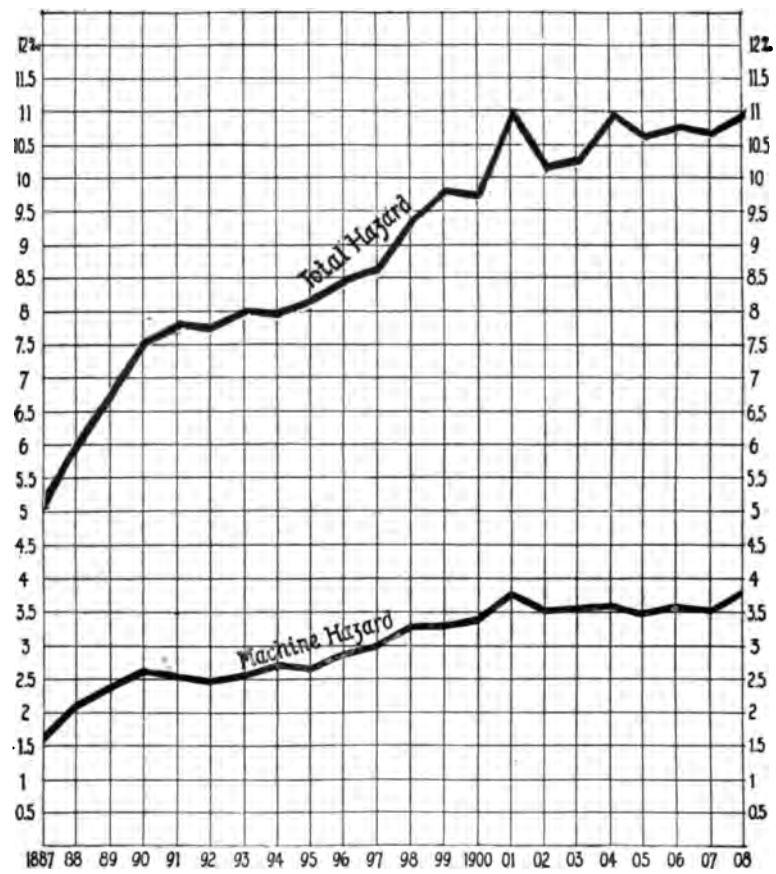
TWENTY-ONE YEARS' ACCIDENT PREVENTION HISTORY
IN THE MINING INDUSTRY



Number of injured miners per thousand insured.

FIGURE 47

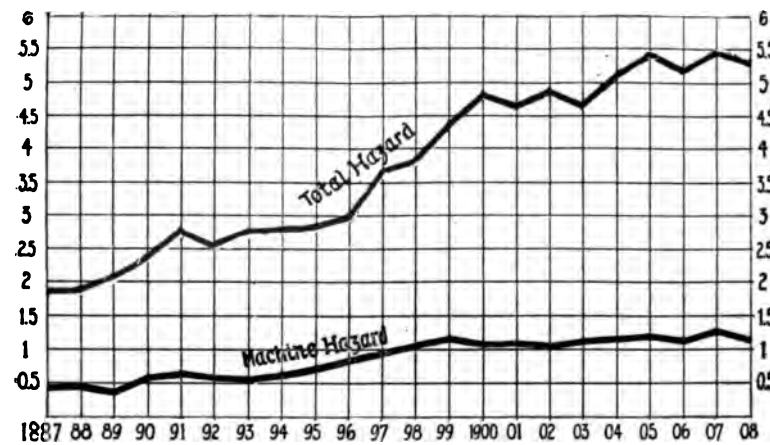
TWENTY-ONE YEARS' ACCIDENT PREVENTION HISTORY
IN THE IRON AND STEEL INDUSTRY



Number of injured workers per thousand insured workers.

FIGURE 43

**TWENTY-ONE YEARS' ACCIDENT PREVENTION HISTORY
IN THE GLASS, POTTERY AND BRICK INDUSTRIES**



Number of injured workers per thousand insured workers.

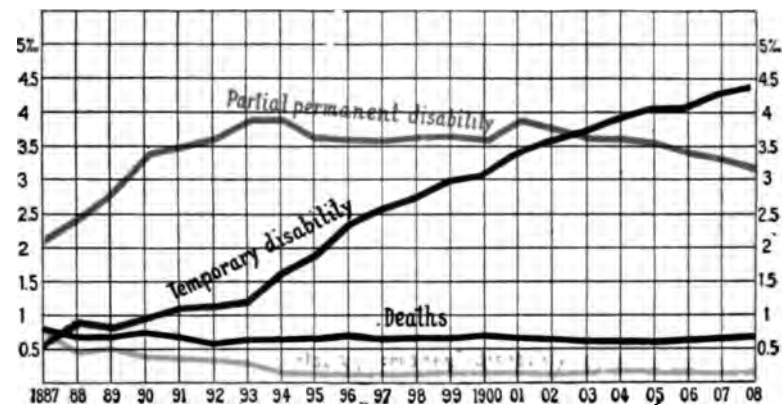
A further analysis of accidents in the same industries, and taken from the same records, is shown in the following pages. Here the accidents are divided into four classes, and the record of each class and for each year is shown in these charts. The story told is practically the same in all industries, namely:

Further
Analysis
of Accidents

1. The death line due to accidents has either remained stationary or has actually decreased.
2. The total and permanent disability line has materially decreased.
3. Partial permanent disability, while increasing rapidly up to the year 1894, remained steady up to 1900 and constantly decreased since then.
4. Temporary disability due to accidents has continually and rapidly increased.

FIGURE 49

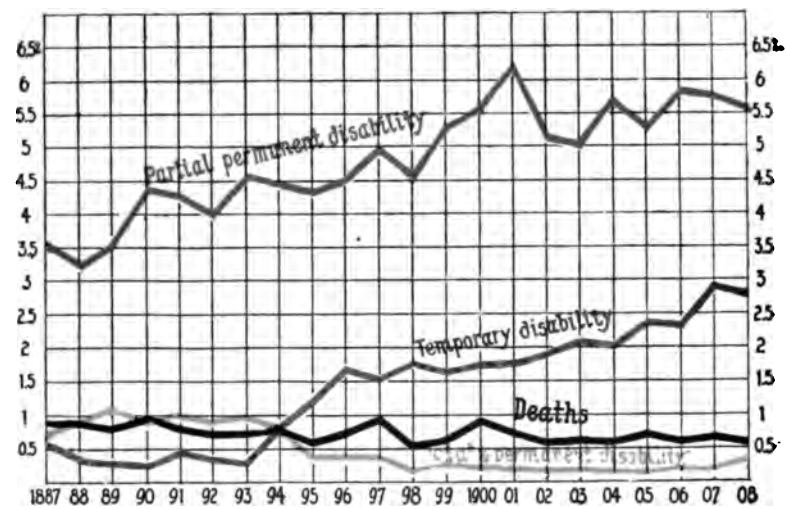
RESULTS OF TWENTY-ONE YEARS' ACCIDENT PREVENTION FOR ALL INDUSTRIES COMBINED



All curves express disabled workers per one thousand insured.

FIGURE 50

RESULTS OF TWENTY-ONE YEARS' ACCIDENT PREVENTION FOR THE CHEMICAL INDUSTRY



All curves express disabled workers per one thousand insured.

FIGURE 51
RESULTS OF TWENTY-ONE YEARS' ACCIDENT PREVENTION FOR THE GLASS, POTTERY AND BRICK INDUSTRIES

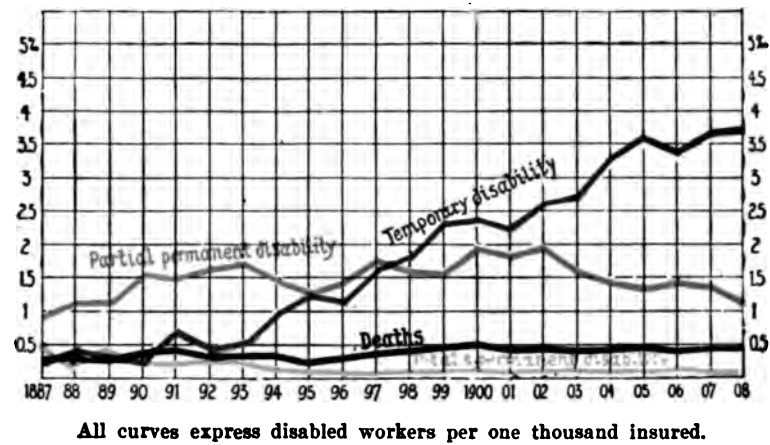


FIGURE 52
RESULTS OF TWENTY-ONE YEARS' ACCIDENT PREVENTION FOR THE IRON AND STEEL INDUSTRIES

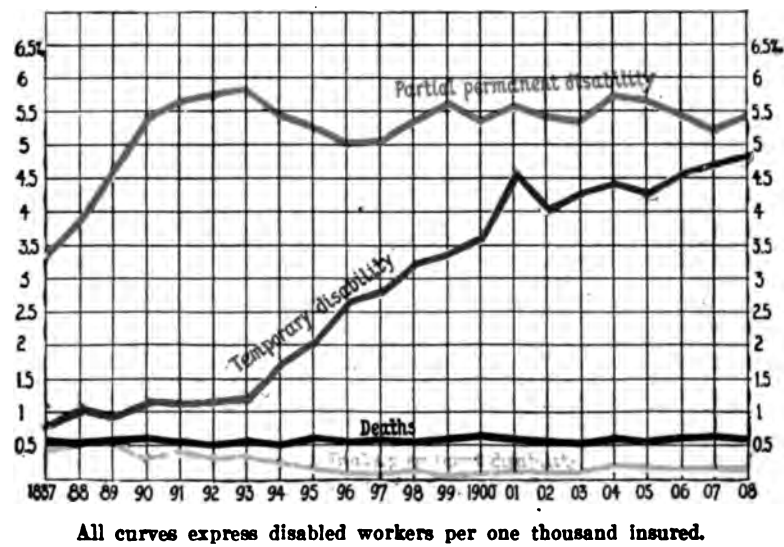
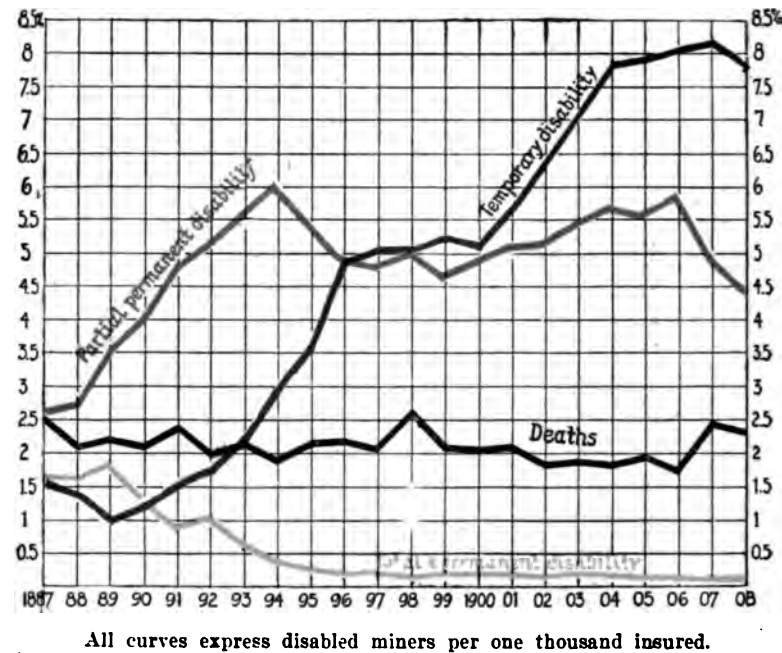


FIGURE 53
RESULTS OF TWENTY-ONE YEARS' ACCIDENT PREVENTION FOR THE MINING INDUSTRY



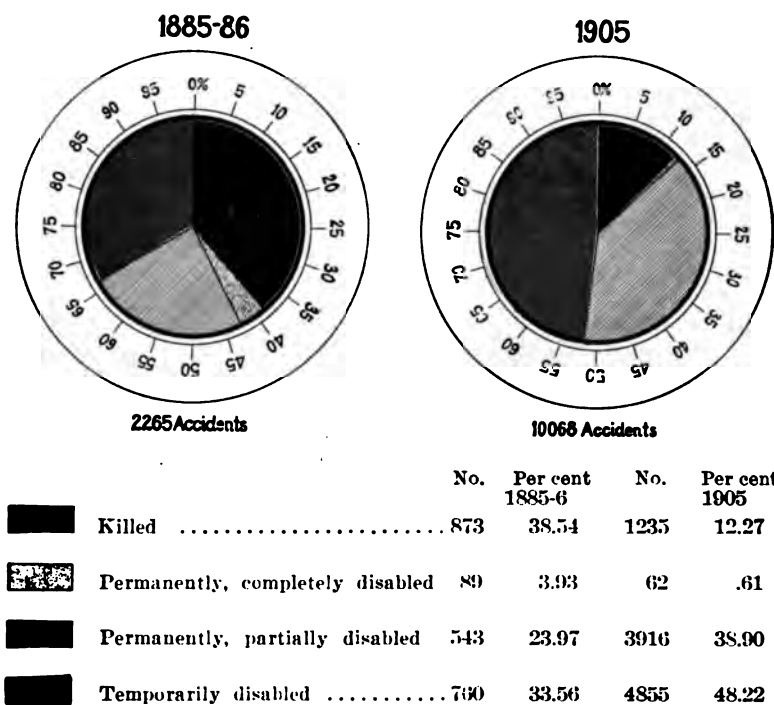
Preventive
Measures
Necessary to
Check Accident
Increase

Lengthy discussions with German authorities and a thorough study of the work just published by the Society of Prevention Engineers, which we have before mentioned, bring out these additional thoughts on the subject:

1. Without strenuous prevention efforts industrial accidents grow at a tremendous rate. It is not fair to stop at counting the actual decrease, we must also count the probable large increase which would have taken place without prevention efforts.

2. More and more slight accidents are reported each year. Every effort of the government and of employers' associations is directed toward prompt reporting of all

FIGURE 54
RESULTS OF TWENTY YEARS' ACCIDENT PREVENTION
(MINE EMPLOYERS' ASSOCIATION)



accidents. There are penalties provided for violation of this rule and it is, therefore, not surprising that workers report slight injuries now which years ago were left entirely unnoticed. In view of this, the increase in number of *reported* accidents does not necessarily mean an increase in *actual* accidents.

Slight
Injuries
Formerly
Unnoticed
Are Now
Reported

Scarcity of
Help a
Source of
Accident
Increase

3. German industries have developed wonderfully, and the necessity of employing constantly increasing numbers of "green hands" on machines in order to keep "supply" up to "demand" has made necessary the recruiting of workers from among foreigners, who do not speak the language of the country, cannot understand orders or read prevention rules.

All of which points to this conclusion. Accident prevention is not only possible, it is absolutely necessary, but it is a slow process. Whosoever approaches it with the belief that the problem can be solved in the United States in a few years, or without a systematic, intelligent, national movement which must have the co-operation of all interested forces and especially the full backing of progressive legislators and employers, is over-confident, to say the least.

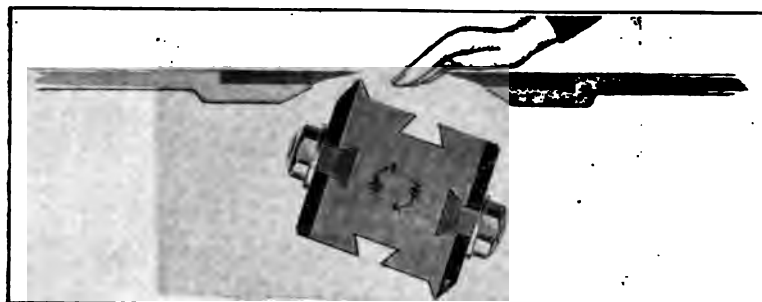
Accident
Prevention
As a
Business
Proposition

That accident prevention pays, as a business proposition, is illustrated in Figures 55, 56, 57 and 58. We have taken as an object lesson the wood-working industry, not because it is more dangerous than many others, but because the actual cases brought to our notice happened to be especially impressive.

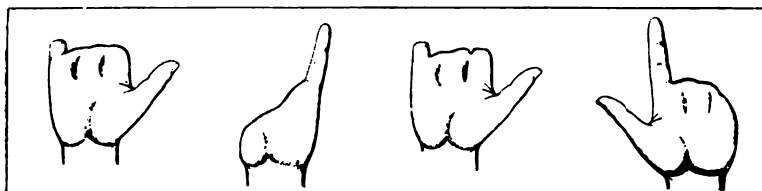
Figure 55 shows an old type square cutter head for wood planers. It revolves at high speed and its square form permits the hand of the operator to enter the slot, which means almost certain amputation of some fingers and this in turn means, of course, a pension for life.

The round cutter head, shown in Figure 57, was invented to do away with the many serious accidents to operators. It can be put in the place of the square cutter head at a few hundred dollars expense.

FIGURES 55, 56, 57 and 58

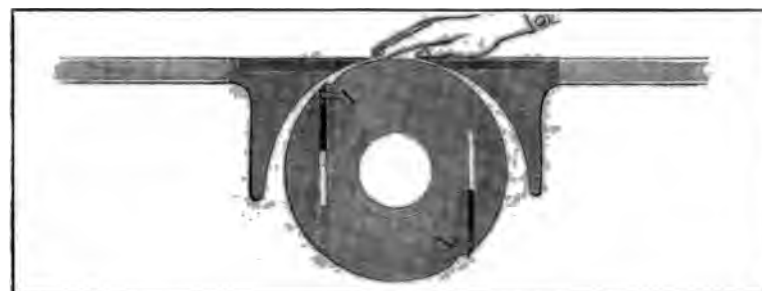


Old type square cutter head for wood planer. Very dangerous. Its use now prohibited in Germany.

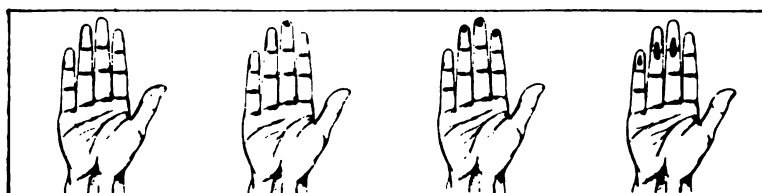


Injuries caused by square cutter head. Four cases like first illustration to the left cost \$15,000.00 in pensions.

Five cases like second illustration (one death due to blood poisoning) cost \$4,000.00 to date and \$350.00 pension per year.



New type round cutter head for wood planer. Much safer in operation. Saves 20 per cent in insurance premiums.



Four hands which have come in contact with round cutter head. Note small abrasions indicated by black spots. If square cutter head had been used all four hands would probably be crippled similar to those illustrated above.

The following figures illustrate the method of applying simple safety devices to machines.

FIGURE 59

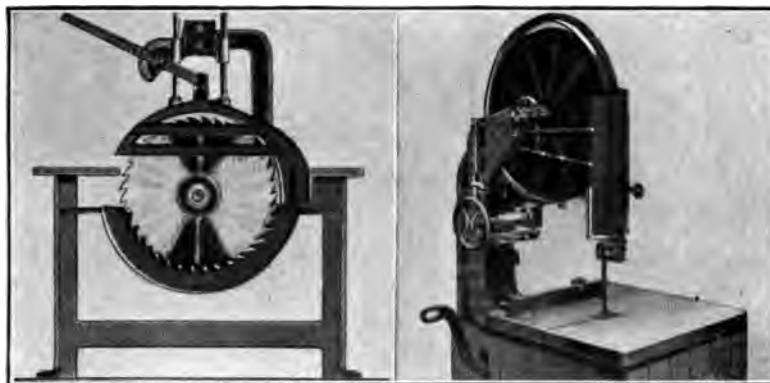


Safety appliance attached to wood groover.

Illustration to left shows old method of operating machine which is very dangerous and responsible for many lost fingers.

Illustration to right is made safe at small expense.

FIGURE 60



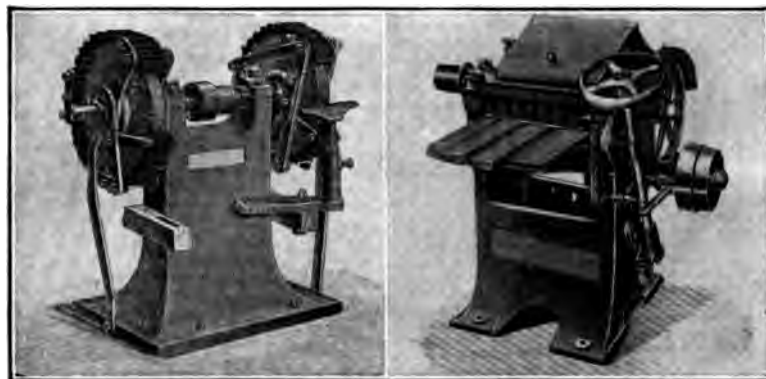
Circular saw (cross section) and band saw for woodworking shop, arranged with safety devices (red) for the protection of worker's limbs.

FIGURE 61



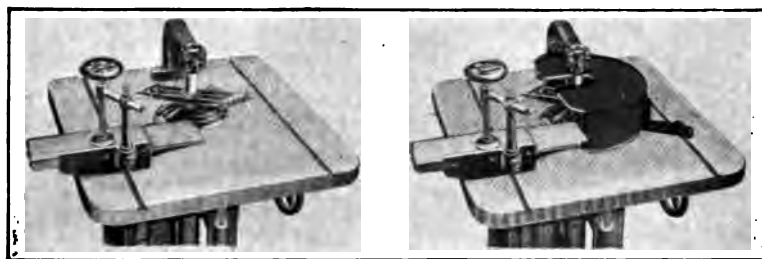
Special safety handle for planing short pieces of wood without danger to operator's hands.

FIGURE 62



Emerywheels with protecting safety guards and wood planer with device which protects the worker's hands from contact with gears and revolving knives.

FIGURE 63



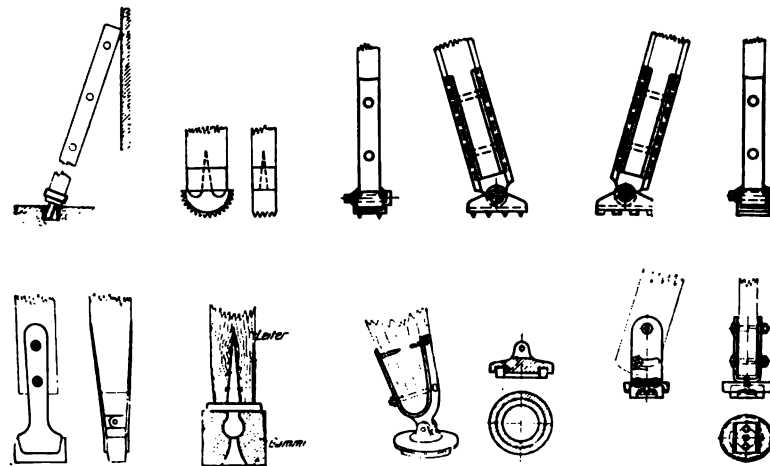
Woodworking machine without and with safety device. A sheet iron guard (red) encloses rapidly revolving cutters, preventing injury to attendant.

Simple
Accident
Prevention
Appliances

But let no one imagine that the most effective accident prevention appliances are necessarily found on complicated machines. Small pieces of rubber or lead fastened to the ends of ladders to keep them from slipping, or sharp points for the same purpose, are probably the most effective accident prevention devices in the country.

FIGURE 64

SAFETY FEET FOR LADDERS



Various forms of attaching rubber tips or sharp points to ends of ladders to keep them from slipping.

Room for
Improvement
Still Exists

There is still much room for improvement, as is evident from the fact that falls from ladders head the list of last year's accidents.

FIGURE 65
LADDERS WITH SAFETY FEET

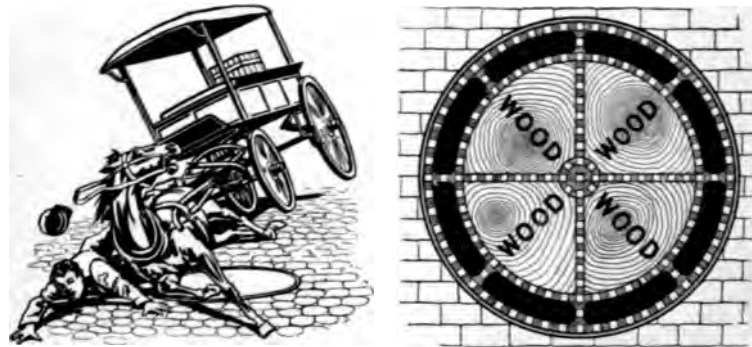


Indicating the security with which men can work on ladders equipped with safety feet.

Some prevention devices are so simple that, much like Topsy of old, they seem to have had no father or mother, but "they just grew." We are much impressed with a street cover which is used in Berlin wherever an opening in the street or sidewalk needs a removable protection. We have not found it anywhere else, and no one seems to pay special attention to its existence. It was not exhibited in any one of the safety museums we have visited, but anyone who has watched the number of injuries caused to man and beast on our city streets, due to slipping on iron covers, would surely advocate the general adoption of this cover, with the necessary modifications, in all American cities.

A Simple
Effectual
Cover for
Street
Openings

FIGURE 66



Many accidents to man and beast are caused by slipping on smooth iron covers on our city streets and sidewalks.

Illustration to the right shows a safety cover used throughout Berlin.

Accident Prevention Institutions

Exhibitions a
strong
Factor in
Accident
Prevention

Strong factors in accident prevention on the Continent are accident prevention institutions, or museums, that is, permanent expositions, usually "working exhibits" of safety appliances for the industries and the farm. The oldest one of these institutions is in Amsterdam. It is exceedingly interesting, but has not been kept up to the high standard of newer institutions. We are told, however, that recently large sums of money have been appropriated by the city and state for the erection of a new building and for new equipment.

FIGURES 67 and 68



Interior views of old Vienna Accident Prevention Institution.

FIGURE 69



Exterior view of Berlin Safety Museum built and maintained at an expense of more than a million dollars by the Imperial Government.

rominent
institutions
in Europe

Paris has a working exhibition of safety appliances. There is a good old institution of this kind in Vienna. A new museum, for which the money is on hand, is being built at great expense on a site opposite the imperial palace. Budapest, Hungary; Milan, Italy; and Zurich, Switzerland, have accident prevention institutions, but the two best institutions are located in Berlin and Munich, Germany.

FIGURE 70



Interior view of Berlin Safety Museum.

Both of these museums are kept up to date at all times. The latest and most improved safety appliances for accident, as well as sickness prevention, are kept on exhibition and are explained thoroughly at regular hours each day by competent attendants. Admission is free. We are told by good authorities that the keeping up of the Berlin institution alone costs the government at the rate of 25 cents per visitor.

European
Institutions
Kept Fully
Up to Date

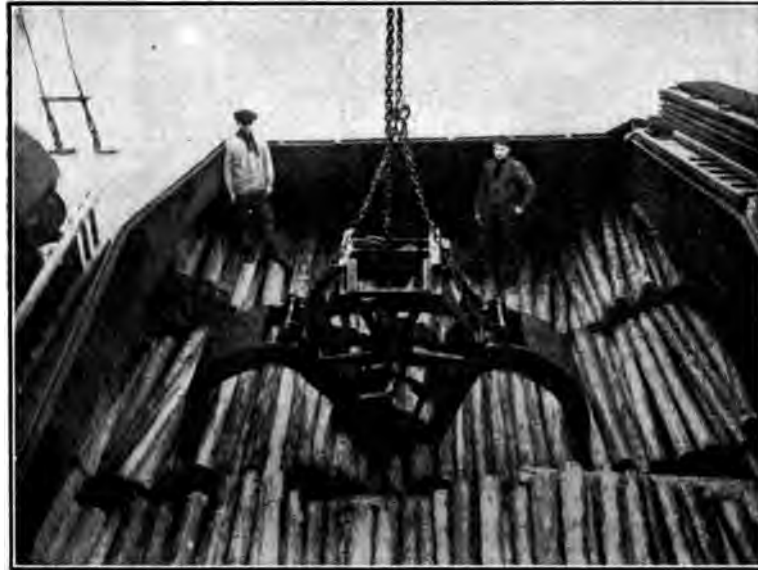
Nearly all machinery is made up into "running exhibits" and delegations of workmen, foremen, contractors, farmers and employers from all parts of the empire are

FIGURES 71 and 72



Exterior and Interior view of Munich Institution.

FIGURE 73



Safety method of loading and unloading round timber.

encouraged to visit the Berlin and Munich museums for instructive demonstrations. The various departments of the museums are used as regular lecture halls for some of the colleges and the factory and safety inspectors of the country are brought to Berlin regularly for a week or ten days each year to receive instruction and practical demonstration regarding the year's development in safe and healthy working conditions in the industries and upon the farm.

Among the thousands of safety appliances which we have examined in the safety museums and in the factories of the Continent many are very simple; others are very

State Factory
Inspectors
Given Yearly
Demonstrations

Character of
Museum
Exhibits

FIGURE 74



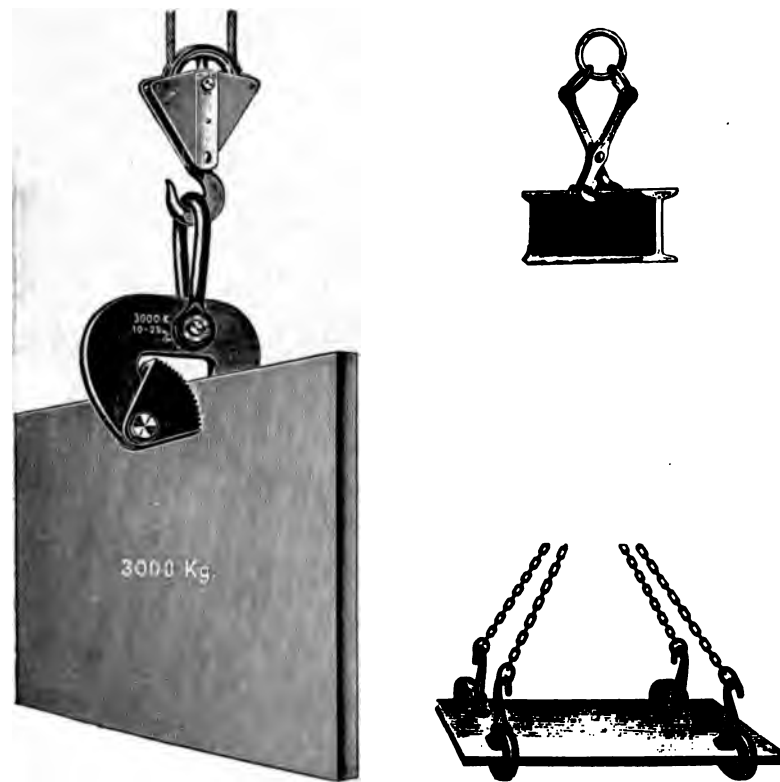
Loading and unloading scrap iron by means of electro-magnets.
More efficient and much safer than any other method of handling.

complicated. Some are very practical; others are not at all adaptable to our industries or our way of doing things.

It would require a large volume to give even a superficial impression on this subject, and after explaining every safety device or prevention appliance which we have seen or heard of in our investigation, we would probably be told by some experts that there is little that is new among them. Most of these appliances are known somewhere in the United States. Many of these devices have been illustrated in the literature of American insurance companies. One of our best prevention experts tells us that during a recent investigation tour in one of the European countries he was shown "the best and latest" safety device for punch

Most European
Safety
Appliances
Known in the
United States

FIGURE 75



Safe handling of steel plates and beams.

FIGURE 76



Safety devices for handling white hot metal in rolling mills.

presses, which he immediately recognized as a patented invention of his own, which has had a limited use in the United States for many years.

A number of American employers are making praiseworthy efforts in safeguarding their factories, as may be learned from the Appendix to this volume.

Undoubtedly many prevention appliances in use in Germany might well be adopted here, but the real and important difference is not in prevention apparatus—it is in the *prevention spirit*. In Europe, and especially in Germany, accident prevention is kept constantly before the

Prevention
Spirit Most
Desirable

FIGURE 77



Asbestos protection for workers handling crucible of molten metal.

public, before the legislatures, before the employers, and before the workers. It is taught the children at school; the colleges devote much time to it. Trade schools and similar institutions have special courses in the science of accident prevention. Insurance rates are gauged according to the state of accident prevention practiced in individual shops, and the leaders in industrial, political and economic life, instead of quarreling as to where the blame for accidents should be placed, combine and concentrate their efforts upon an educational and practical accident prevention campaign.

Extent of
European
Interest

FIGURE 78



Photograph of a gruesome exhibit at the Vienna Museum.
Showing decayed jaw bones, the result of phosphorus poisoning.

**Standard
Machinery
Compulsory**

A very effective feature of the German accident prevention program is provided by the adoption of standard specifications for all types of machinery. Expert prevention engineers draft such specifications, and after their adoption by employers' associations such specifications are insisted upon in the purchase of all future machinery by members of the association.

CHAPTER SEVEN

***Cost of Accident Compensation in Germany in Comparison
with Similar Rates in the United States***

CHAPTER VII
COST OF ACCIDENT COMPENSATION INSURANCE IN GERMANY
IN COMPARISON WITH SOME RATES IN THE
UNITED STATES

Some enthusiasts would tell us that equitable compensation would cost less than our present employers' liability system. If we take into consideration harmony, human happiness, health and whole bodies, there is no answer to such an argument, because money cannot buy these things, nor can money compensate for their loss. However, the cost in dollars and cents of an equitable compensation scheme, as expressed in insurance rates, is much higher than our present employers' liability method. This, at least, has been Germany's experience, and we cannot hope to ever have a more efficient system than Germany has now, as shown in various diagrams on other pages.

German
Insurance
Rates Higher
than Ours

We have gathered the rates of insurance in several thousand occupations, but the average man is more interested in the cost of compensation insurance for a certain

Meaning of
Lines on
Diagrams on
Pages Follow-
ing

group. For illustration: The proprietor of a machine shop wants to know what percentage of the pay roll must be paid for all of his employees. The rate for a certain kind of machine operator is of secondary importance. The following pages give a record for all the industrial and agricultural groups. The black lines indicate the actual cost of insurance which German employers are paying now, and have paid since the beginning of the system, that is, 1886 in most cases. The red lines show the record of injured workers in each industrial group since the existing scheme was started. You will note that the curves of almost all industrial groups show a tendency toward more rapid increase between the years 1898 and 1902. This is due to increased requirements regarding reserve funds. Most of the diagrams have been placed so as to become impressive by contrast. All diagrams and figures have been prepared by experienced government statisticians and many of the most important ones under the consulting supervision of Prof. Dr. Manes.

Before proceeding to illustrate group rates, let us show how extreme the differences in insurance premiums are in a single group.

FIGURE 79

Hazard Figure	Occupation	Rate per \$100. pay roll.														
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	
.1	Floor Polishers, Architects															\$.18
25	Paperhangers															.44
33	Shoe Setters															.58
45	Glaziers, Cabinetmakers															.79
52	Painters															.92
57	Brick Yard Workers															1.01
59	Asphalt and Cement Workers, Stone and Tile Layers															1.04
67	Stone Masons, Stone Breakers, Plasterers, Plaster and Cement Casting Establishments, Artificial Stone Factory															1.18
7	Carrying Building Material, Had Carriers, Tin-smiths, Locksmiths, Blacksmiths, House-smiths, Plumbers, Gas, Water and Steam Fitters															1.24
8	Mortar Mixers															1.41
9	Window Cleaners															1.62
11	Passenger Vehicles, Buggies, etc.															1.94
12	Yards selling new building material, Bricklayers, Building Contractors, Carpenters, Stackers															2.12
13	Shipbuilders															2.30
16	Underground Work, Sand, Gravel and Clay Digging															2.83
20	Millwrights															3.53
24	Freight Vehicles															4.24
27	Lightning Rod Makers and Installers, Roofers															4.77
31	Well Diggers, Stone Blasting, Quarries															5.47
43	Putting up and taking down scaffolding															7.59
45	Attending to and operating steam engines, boilers and other machinery, except wood-working machines															7.95
62	Attending to and operating wood-working machinery															10.95
76	Wrecking buildings and shops, yards for second-hand building material															13.42
	Average for the whole group															\$ 2.25

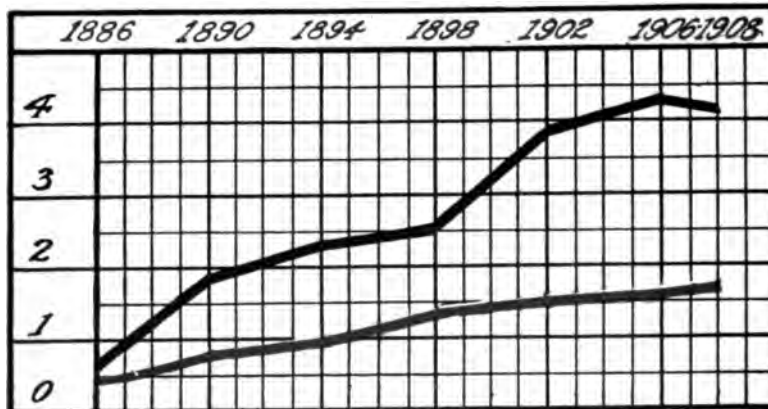
German insurance rates for 1900.
 Building trades industry. Employers' Mutual Association for North-western Germany, Section No. 1.

**TWENTY-TWO YEARS' GERMAN HISTORY OF INJURED
WORKERS AND INSURANCE RATES FOR VARIOUS
INDUSTRIAL GROUPS**

**FIGURE 80
TEAMING INDUSTRY**



**FIGURE 81
FLOUR MILL INDUSTRY**



Black lines indicate insurance rates per \$100 pay roll.
Red lines indicate number of injured per 1000 insured workmen.

**TWENTY-TWO YEARS' GERMAN HISTORY OF INJURED
WORKERS AND INSURANCE RATES FOR VARIOUS
INDUSTRIAL GROUPS**

FIGURE 82

RIVER AND LAKE NAVIGATION

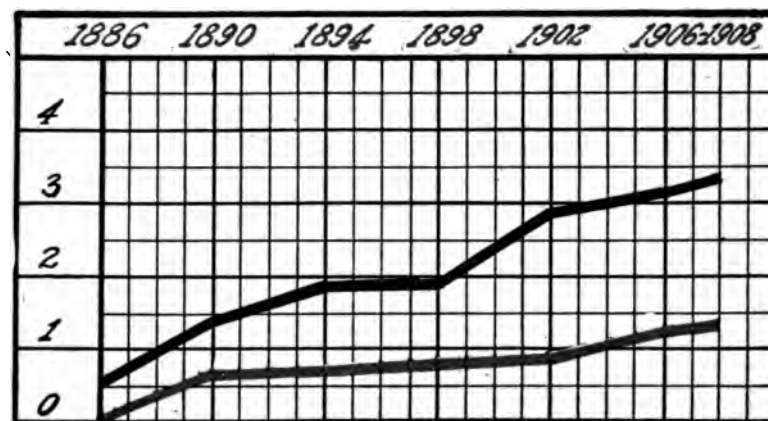
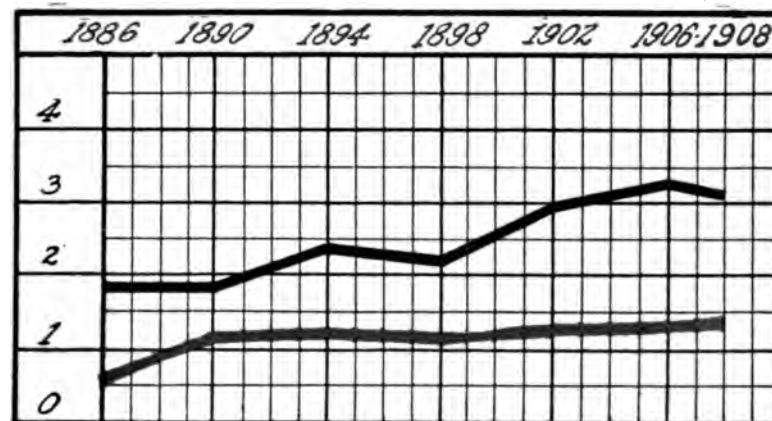


FIGURE 83

BREWING AND MALTING INDUSTRY



Black lines indicate insurance rates per \$100 pay roll.

Red lines indicate number of injured per 1000 insured workmen.

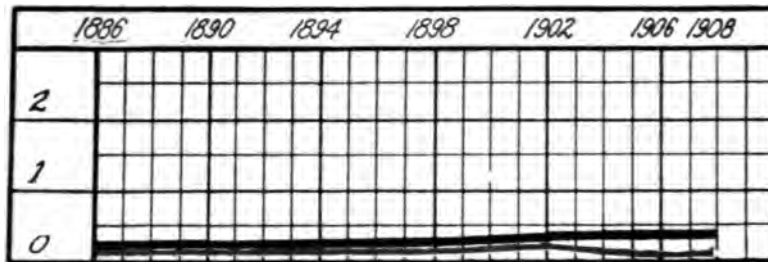
**TWENTY-TWO YEARS' GERMAN HISTORY OF INJURED
WORKERS AND INSURANCE RATES FOR VARIOUS
INDUSTRIAL GROUPS**

**FIGURE 84
AGRICULTURAL AND HORTICULTURAL**

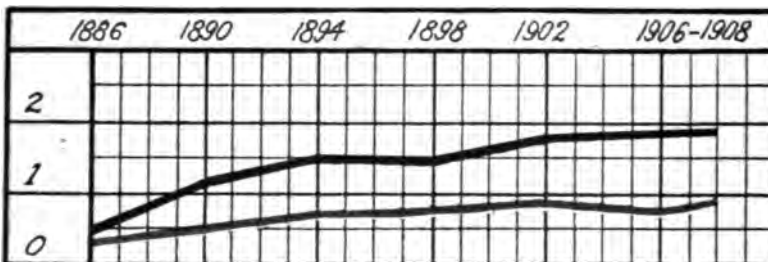


*The heavy drop in insurance rates between 1906 and 1908 and in injured workers is due to a census or recount of the farm population and does not necessarily indicate such an improvement as the curve would suggest. Another uncertainty in this chart was brought about by the necessity of estimating farm wages, as no reliable statistics are at hand in this field.

**FIGURE 85
TOBACCO INDUSTRY**



**FIGURE 86
DAIRY, DISTILLING AND STARCH INDUSTRIES**



Black lines indicate insurance rates per \$100 pay roll.
Red lines indicate number of injured per 1000 insured workmen.

TWENTY-TWO YEARS' GERMAN HISTORY OF INJURED WORKERS AND INSURANCE RATES FOR VARIOUS INDUSTRIAL GROUPS

FIGURE 87
CLOTHING INDUSTRY

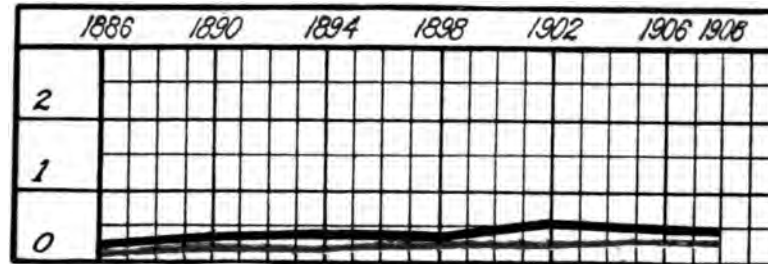


FIGURE 88
QUARRY INDUSTRY

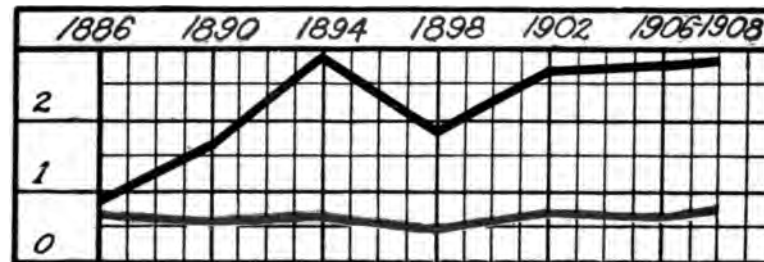
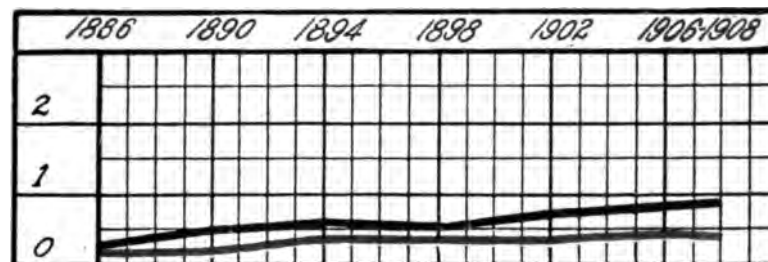


FIGURE 89
TEXTILE INDUSTRY



Black lines indicate insurance rates per \$100 pay roll.
Red lines indicate number of injured per 1000 insured workmen.

TWENTY-TWO YEARS' GERMAN HISTORY OF INJURED
 WORKERS AND INSURANCE RATES FOR VARIOUS
 INDUSTRIAL GROUPS

FIGURE 90
 SUGAR INDUSTRY

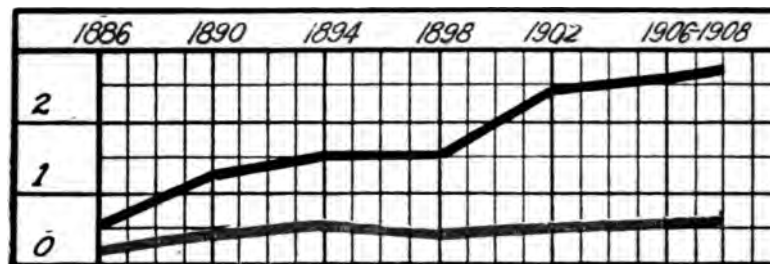


FIGURE 91
 PRINTING INDUSTRY

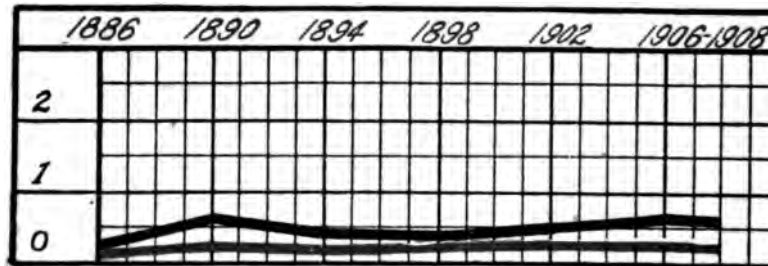
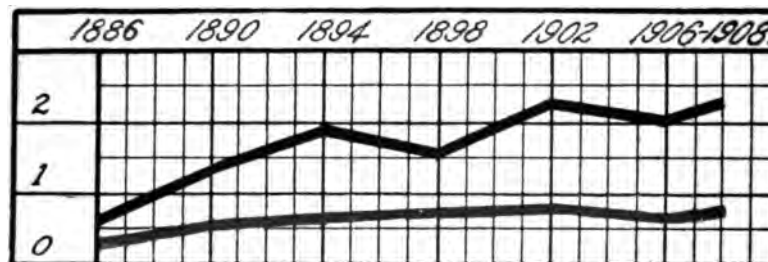


FIGURE 92
 BUILDING TRADES INDUSTRY



Black lines indicate insurance rates per \$100 pay roll.
 Red lines indicate number of injured per 1000 insured workmen.

TWENTY-TWO YEARS' GERMAN HISTORY OF INJURED
 WORKERS AND INSURANCE RATES FOR VARIOUS
 INDUSTRIAL GROUPS

FIGURE 93
 MANUFACTURE OF PAPER ARTICLES

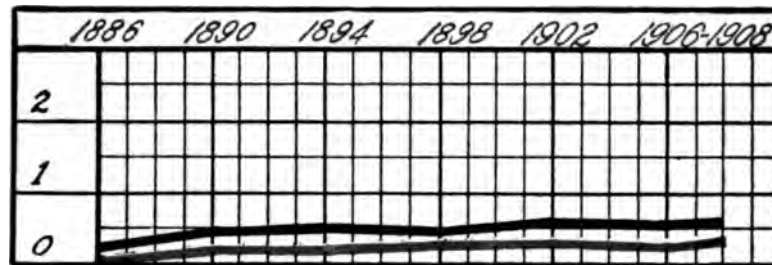


FIGURE 94
 PAPER MAKING INDUSTRY

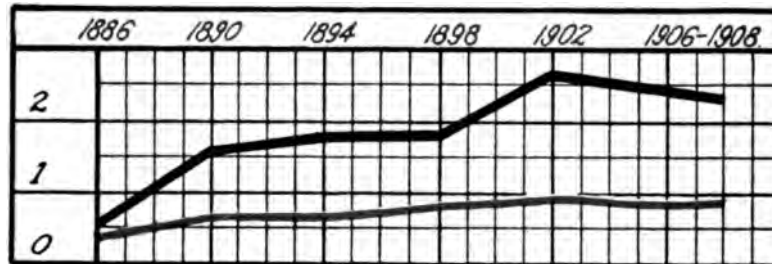
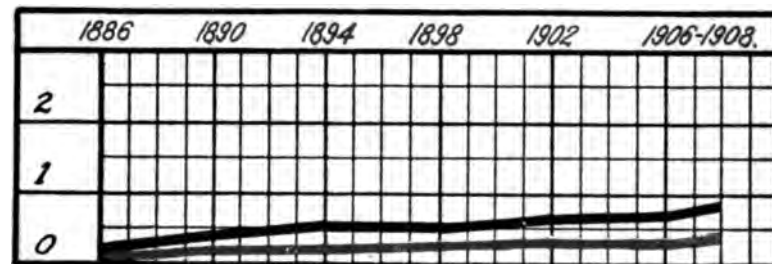


FIGURE 95
 POTTERY INDUSTRY



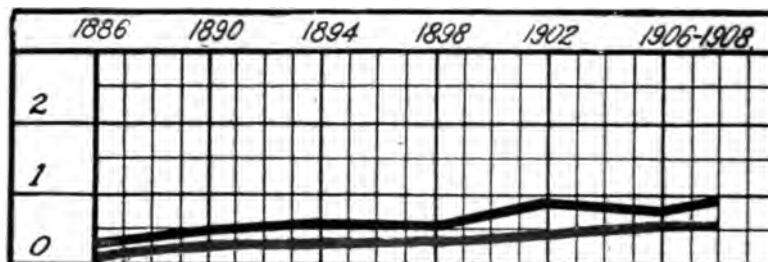
Black lines indicate insurance rates per \$100 pay roll.
 Red lines indicate number of injured per 1000 insured workmen.

**TWENTY-TWO YEARS' GERMAN HISTORY OF INJURED
WORKERS AND INSURANCE RATES FOR VARIOUS
INDUSTRIAL GROUPS**

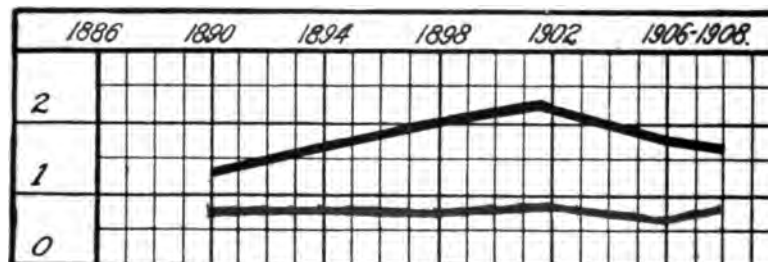
**FIGURE 96
SEA NAVIGATION AND FISHERIES**



**FIGURE 97
MISCELLANEOUS METAL INDUSTRIES**



**FIGURE 98
EXCAVATING AND TUNNELING**



Black lines indicate insurance rates per \$100 pay roll.

Red lines indicate number of injured per 1000 insured workmen.

TWENTY-TWO YEARS' GERMAN HISTORY OF INJURED
WORKERS AND INSURANCE RATES FOR VARIOUS
INDUSTRIAL GROUPS

FIGURE 99
GLASS INDUSTRY

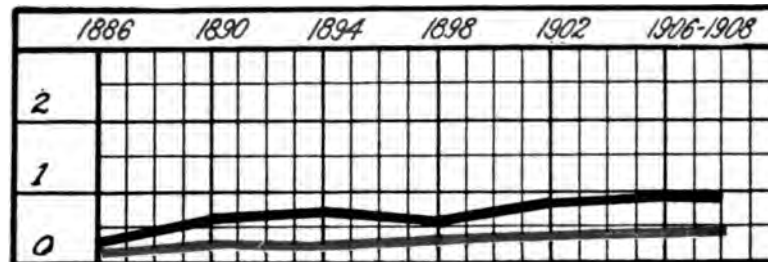


FIGURE 100
WOODWORKING INDUSTRY

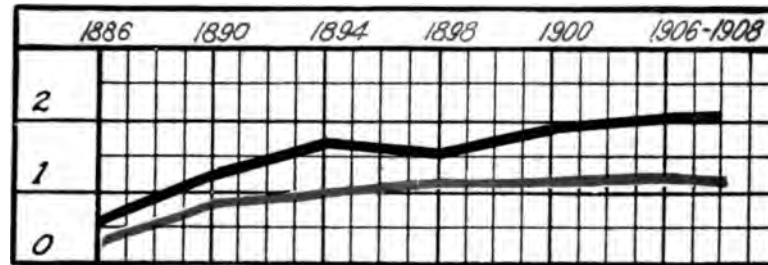
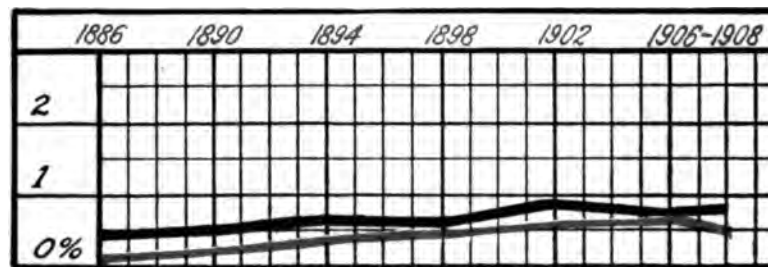


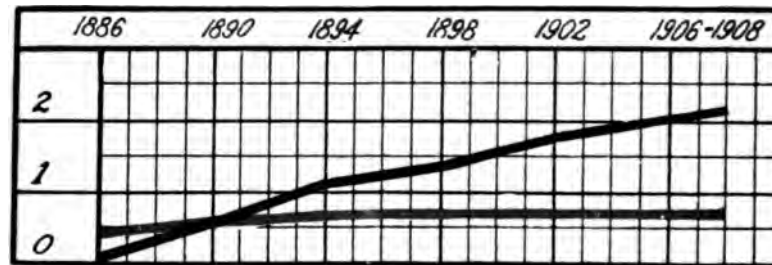
FIGURE 101
MECHANICAL AND ELECTRICAL INDUSTRIES



Black lines indicate insurance rates per \$100 pay roll.
Red lines indicate number of injured per 1000 insured workmen.

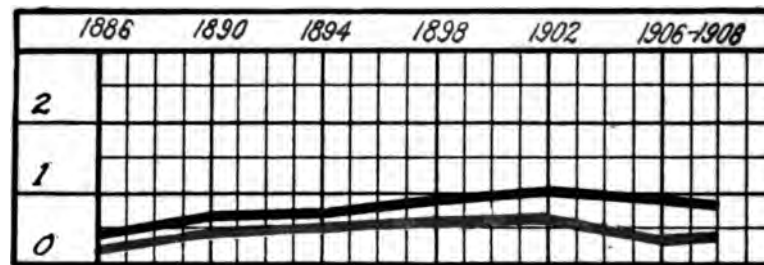
**TWENTY-TWO YEARS' GERMAN HISTORY OF INJURED
WORKERS AND INSURANCE RATES FOR VARIOUS
INDUSTRIAL GROUPS**

**FIGURE 102*
STATE RAILWAYS, MAIL AND TELEGRAPH SERVICE**

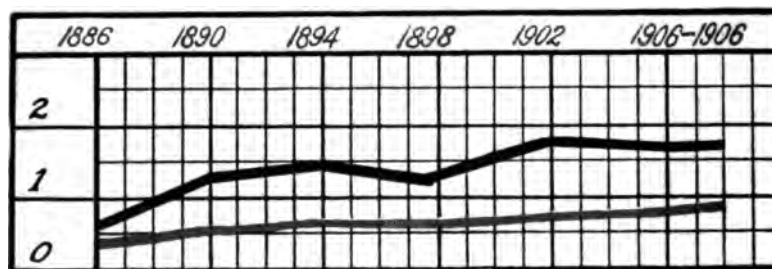


*The wage rate is estimated.

**FIGURE 103
FOOD AND CANNING INDUSTRY**



**FIGURE 104
CHEMICAL INDUSTRY**



Black lines indicate insurance rates per \$100 pay roll.
Red lines indicate number of injured per 1000 insured workmen.

TWENTY-TWO YEARS' GERMAN HISTORY OF INJURED
 WORKERS AND INSURANCE RATES FOR VARIOUS
 INDUSTRIAL GROUPS

FIGURE 105
 MANUFACTURE OF MUSICAL INSTRUMENTS

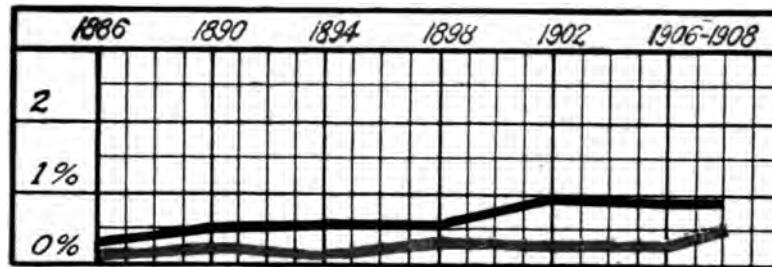
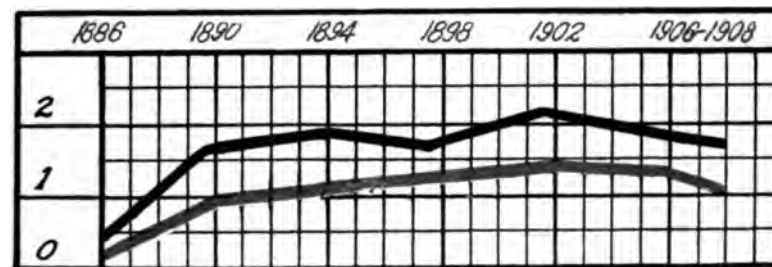


FIGURE 106
 MINING INDUSTRY



FIGURE 107
 WAREHOUSE INDUSTRY



Black lines indicate insurance rates per \$100 pay roll.
 Red lines indicate number of injured per 1000 insured workmen.

**TWENTY-TWO YEARS' GERMAN HISTORY OF INJURED
WORKERS AND INSURANCE RATES FOR VARIOUS
INDUSTRIAL GROUPS**

FIGURE 108

STREET AND INTERURBAN RAILWAYS

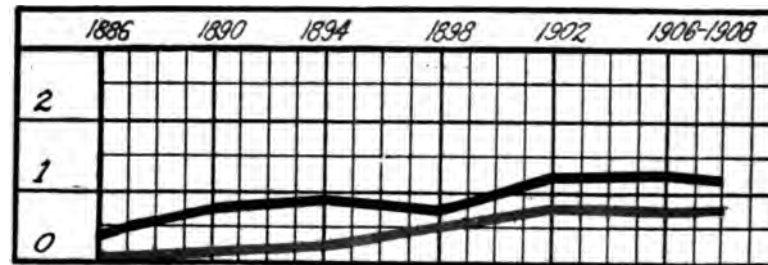


FIGURE 109

BRICK MAKING INDUSTRY

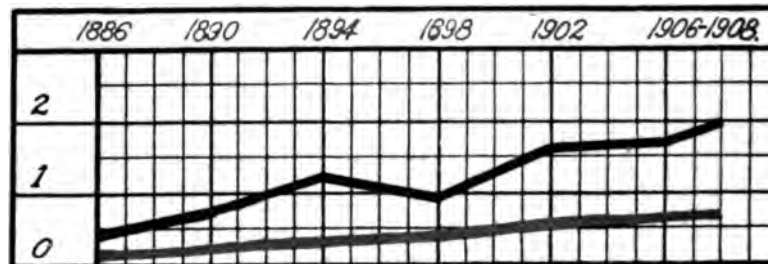
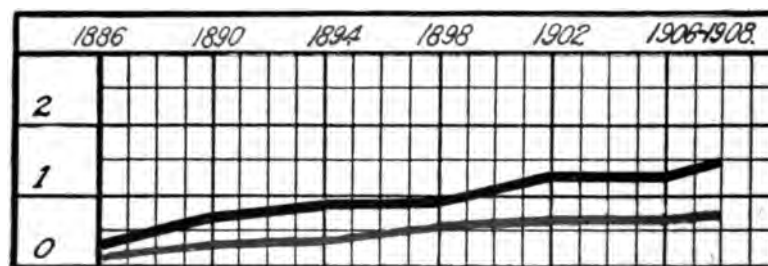


FIGURE 110

LEATHER INDUSTRY

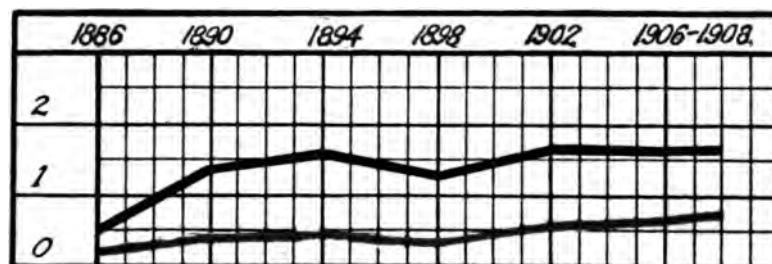


Black lines indicate insurance rates per \$100 pay roll.

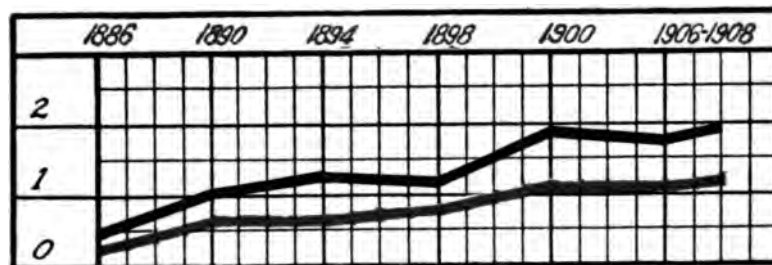
Red lines indicate number of injured per 1000 insured workmen.

**TWENTY-TWO YEARS' GERMAN HISTORY OF INJURED
WORKERS AND INSURANCE RATES FOR VARIOUS
INDUSTRIAL GROUPS**

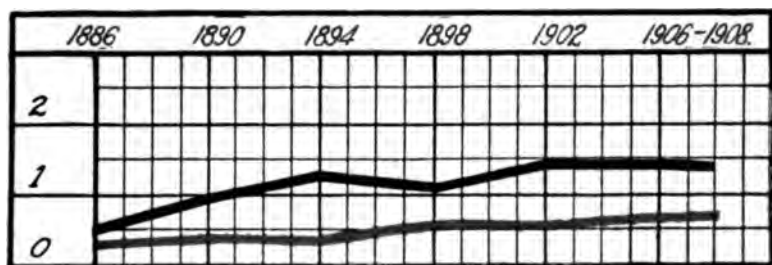
**FIGURE 111
PRIVATE RAILWAYS**



**FIGURE 112
IRON AND STEEL INDUSTRY**



**FIGURE 113
GAS AND WATERWORKS**



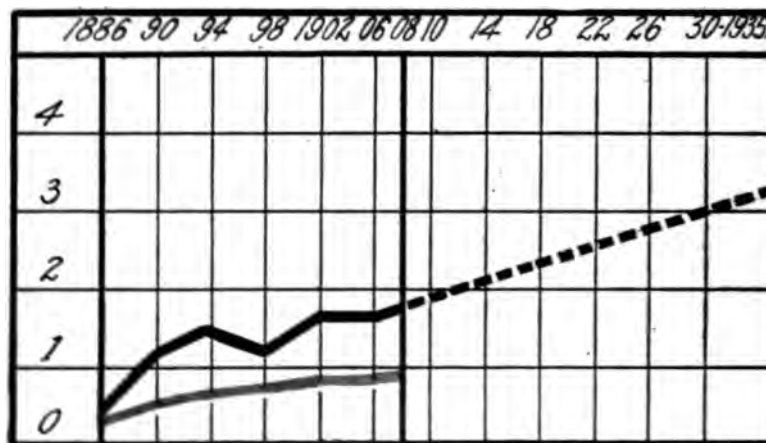
Black lines indicate insurance rates per \$100 pay roll.
Red lines indicate number of injured per 1000 insured workmen.

Rates in
Germany
Higher
than in
England

It will be seen that most of these insurance rates are extremely high as compared with employers' liability insurance rates in the United States. In fact, German rates are higher than present workers' indemnity insurance rates in England, especially when we bear in mind that the German insurance system provides only for a small portion of deferred payments. Each year's assessment covers the actual cost of that year, plus approximately 10 per cent for reserve fund, consequently the cost will increase each year because the new permanent injuries are added each year to the existing old ones.

We have asked a number of prominent men what the final and permanent cost of insurance will be. While this is a difficult question to answer accurately, Prof. Dr. Manes gave us the estimate which is illustrated in the black line in Figure 114.

FIGURE 114
INSURANCE COST IN GERMANY FOR ALL INDUSTRIES
COMBINED



Black full line—insurance cost in percentage of pay roll to date for all occupations combined.
Black dotted line—estimated cost to maximum (1935).
Red line—accidents per hundred insured workers, all occupations combined.

The full line beginning at 1886 and ending at 1908 gives the cost of insurance for all industries combined in percentage of pay roll. The dotted line is the estimated cost up to a maximum and permanent point, which is supposed to be 1935, that is fifty years after the inauguration day of the workers' accident compensation insurance system. The cost in 1908 is 1.75 per cent, in 1906, 1.725 per cent, in 1902 it is 1.73 per cent. The six year period consequently shows very little change.

A number of experienced officials of employers' associations feel that Dr. Manes' estimate of nearly double the present cost is too high, but other equally good men consider the figure very conservative. If we consider the estimate as correct it would mean that in order to cover deferred payments we must practically double each one of the insurance rates shown on the preceding pages.

We have asked a number of German scientists: How do you explain the higher cost of your system when you claim, and with good reason, higher all-around working efficiency than other nations? Their answer is always the same, namely: "We do more for the injured workers." Substantially they tell you this: "We are not building for one year or ten years; we are building for centuries. Believing in the 'survival of the fittest,' we are building up a nation fit to win in international competition. We believe it is a paying proposition for us to spend more money than other nations for our incapacitated workers. For humane as well as for business reasons it is good policy. But please note that we are spending our money, not in life pensions to slightly disabled workers, nor in old age pensions to persons who can prove that they are

Germany's
Policy is
to Increase
the Worker's
Efficiency

**Beneficial
Influence of
Social
Insurance**

paupers. We believe such a course would manufacture paupers and invalids. We spend our money with the workers' money in every endeavor that is calculated to promote their efficiency or capacity. We spend lots of money voluntarily and in addition to our insurance premiums to mend as much as possible, and as quickly as possible, the injured worker's ills, so that he may again become a producing member, instead of a consuming member, of the nation." We have many letters from prominent employers and presidents of their respective industrial organizations expressing the above views and their conviction that the average German worker is more efficient today on account of being relieved from worry and fear of accidents and sickness. This relief work seems to have a favorable effect not only on the worker, but also upon his family. Medical authorities claim that the height and fitness of the young men who are examined for military service is improving constantly and that this is in a large measure due to 25 years of social insurance.

**English
Views of the
German
System**

Nor is this impression of German efficiency confined to Germans. England has sent a dozen or more commissions into Germany in the last year to study industrial conditions. All of them speak highly in their reports about German industrial efficiency. We quote a small part of the report of one of the most critical English commissions, which consisted of members of the Labor Party and Trade Union Commission:

"One effect of all this public and voluntary organization is to prevent the hideous open social sores with which we in Great Britain are so familiar in the streets of our large cities. There are certainly

poor in Germany, many more than in England. But there are few so utterly broken on the wheel of misfortune as those who are allowed with us to wander about parading their sores and propagating their kind.

"To sum up on this first point, it seems to us that Germany, individually and collectively, is realizing itself and organizing itself. True, it is largely by bureaucratic methods. What effect this may have ultimately, or may have had already, on individual character, as well as upon home life, we are not in a position to say; but we are convinced that it is having a considerable effect at present in increasing the productive efficiency of the nation. In short, it is brains, and not tariffs, that account for Germany's wonderful progress in the world."

Even in France, where ordinarily anything German finds but little consideration, the German social insurance system is admired. Edouard Fuster, of Paris, one of the greatest social insurance experts in the world, is quoted as saying:

French
Views of the
German
System

"The money which Germany is devoting to social insurance reappears in a thousand forms. It promotes happiness of the family, health and self-respect. It makes for a strong, enduring nation and for international supremacy."

But however beautiful sentiment may be we are a practical nation. We are business men first and altruists second. We can, and must, do as well for our workers as any nation in the world, but we must not forget that the average worker has a far better chance here than in

Germany or any other European country. It may be desirable and possible to inaugurate a relief system as efficient as the German with lower compensation and lower cost. On this assumption we had prepared a comparative estimate of German, English and American compensation insurance values and here is the result:

Comparison
of German
with English
and American
Insurance

Estimated Value of German vs. English and American Accident Compensation Insurance. (By Prof. Dr. Alfred Manes.)—

“Free medical treatment and continuous payments to the family of a workman killed by accident in Germany are lacking both in America and England.

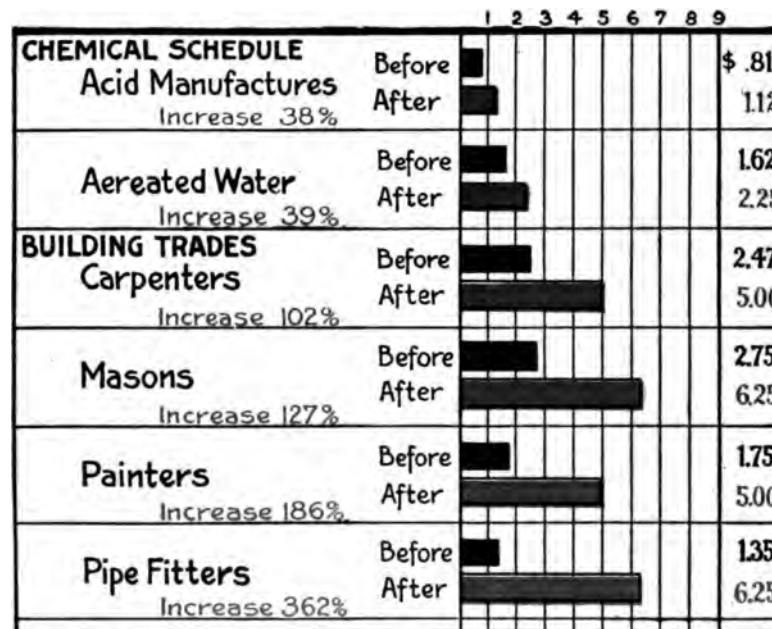
“If German accident insurance only did what is done by American private insurance (——— Co. policy 1910,) it would, in my estimation, be from 33 to 66 *per cent cheaper* than it is today; if restricted to the English benefits it would be from 25 to 40 *per cent cheaper*. If, on the other hand, American or English insurance were to do exactly the same that is done by the German employers' association for the injured workman or his family, the premium of American insurance would have to be *raised by at least 100 per cent, possibly even by 150 per cent*, while those of English insurance would have to be increased *about 50 to 100 per cent*.

“The comparison can only be of an approximate nature; an exact comparison is hardly possible owing to the numerous differences in regard to details.”

However, at best this is only an estimate, and experience is necessary to prove estimates correct. We were in

close touch with insurance concerns before our departure for Europe, and have been since our return to the states. We have compared insurance rates before and since the enactment of the New York compensation law. Comparison in a few schedules is startling.

FIGURE 115
INSURANCE RATES IN NEW YORK BEFORE AND AFTER
ENACTMENT OF LAW OF 1910.
Per \$100.00 Pay Roll.



This increase brings New York insurance rates for compensation above the German rates, and we have every reason to believe that present New York rates will have to be increased materially. On the other hand, it is doubtful whether the efficiency is any greater than it was under the

Insurance
Rates in
New York

old law, so that the average injured worker and his dependents receive no larger share of the employer's payments.

A comparison of insurance rates now paid in New York with those paid in Germany for the same industries is made in the following figure.

FIGURE 116

**COMPARISON OF COMPENSATION INSURANCE RATES IN THE
STATE OF NEW YORK AND GERMANY.**

Per \$100.00 Pay Roll.

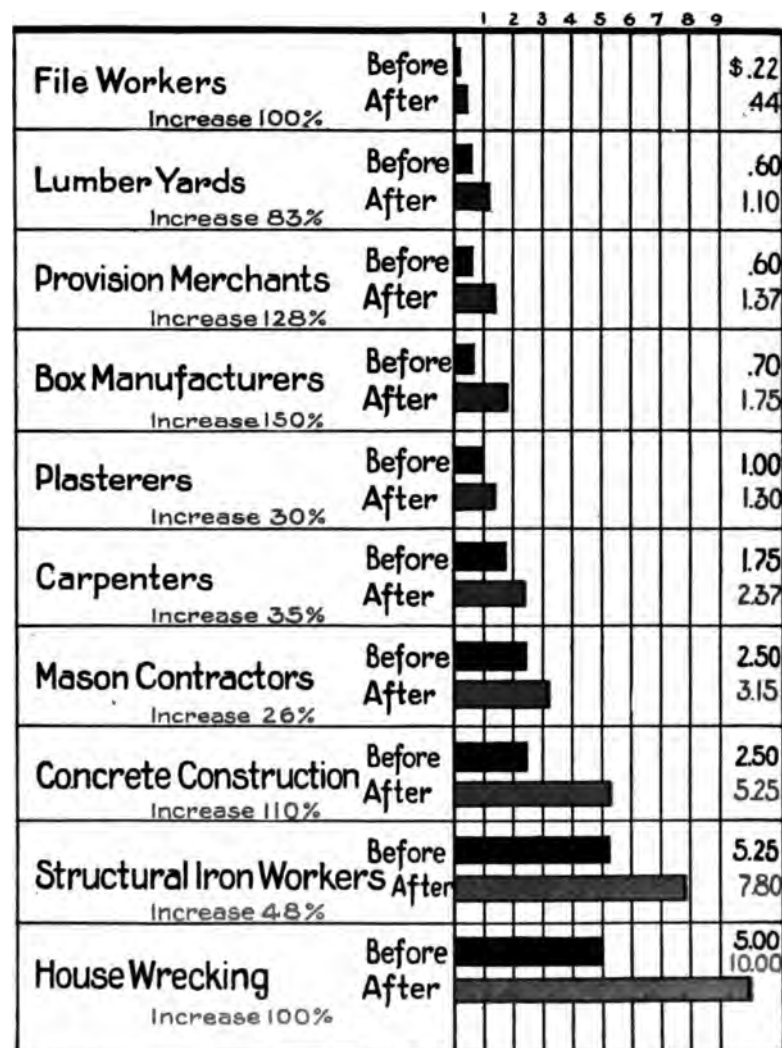
		1	2	3	4	5	6	7	8	9	
Carpenters	German Rate	■	■	■	■	■					\$2.57
	New York Rate	■	■	■	■	■	■	■	■	■	5.00
Masons	German Rate	■	■	■	■	■					1.43
	New York Rate	■	■	■	■	■	■	■	■	■	6.25
Painters	German Rate	■	■	■	■	■					1.12
	New York Rate	■	■	■	■	■	■	■	■	■	5.00
Plumbers	German Rate	■	■	■	■	■					1.50
	New York Rate	■	■	■	■	■	■	■	■	■	3.25
Steam & Pipe Fitters	German Rate	■	■	■	■	■					1.50
	New York Rate	■	■	■	■	■	■	■	■	■	6.25
Coal Miners	German Rate	■	■	■	■	■	■	■	■	■	1.00
	New York Rate	■	■	■	■	■	■	■	■	■	7.20

Insurance
Rates in
Ohio

The State of Ohio enacted an Increased Employers' Liability Law a year ago which, however, is expected to be replaced with a Compensation Act at this year's session of the legislature. This Ohio Act also increased insurance rates very materially as is demonstrated in Figure 117.

FIGURE 117
INSURANCE RATES IN OHIO, BEFORE AND AFTER ENACT-
MENT OF LAW OF 1910

Per \$100.00 Pay Roll



Insurance
Legislation
Demands our
Attention

A comparison of the insurance rates which are illustrated in the last pages would impress every employer and every legislator with the necessity of careful consideration of new legislation. We should act as rapidly as is compatible with the greatness and complexity of the subject. We must proceed in a constructive and not a pessimistic spirit, but unless we give due consideration to every phase of the subject, we shall only retard instead of hastening the final equitable solution of the great problem.

CHAPTER EIGHT

**Employers' Liability in Great Britain Prior to the
Compensation Acts**



CHAPTER VIII

EMPLOYERS' LIABILITY IN GREAT BRITAIN PRIOR TO THE COMPENSATION ACTS

We will now turn from the remarkable system and recorded experience of Germany to consider the compensation principle as embodied in the law of Great Britain. Our entire legal system rests upon an English base, and we turn with natural interest and curiosity to the spectacle presented by the introduction of novel theories and practices into a proverbially conservative system of law hitherto closely akin to our own in form and administration.

It is from the English common law we derive the fundamentals of our prevailing doctrine of employers' liability. The statutes of our states reflected the modifications enacted by the British Parliament. It would therefore seem that by briefly reviewing the liability of the employer in Great Britain before the recognition of the compensatory principle, we may more clearly realize the character and extent of the change it effected, and we are in a better position to measure the consequences which would flow from similar action within our own states.

English
Common Law
the Basis of
our Present
Liability Laws

Employer and
Employee
under the
Common Law

In the eyes of the common law the relation of the employer and workman, or, as it was usually termed, that of "master and servant," was one of contract arising out of the agreement of one to give, the other to compensate, service. The development of the common law theory of that relationship represents the continuous effort of successive courts and judges, through long periods of time and many changes of condition, to construe that contract in accordance with the circumstances of employment and society in which the employer and workman made it. Thus, during many centuries, the liability of the employer for injuries received in the course of employment was defined, not by an Act of Parliament, but by judicial interpretation of the contract of service. Toward the middle of the 19th century Parliament for the first time undertook to remedy certain defects and hardships arising in the course of the administration of the common law by reading into the contract of service new terms of liability placed there from considerations of public policy and justice to the workman. To this secondary stage of the development of employers' liability belong those various statutes passed from time to time during the half century immediately preceding the first Compensation Act.

Development
of the
Liability Laws

This statutory liability, modifying and extending or sometimes merely defining the obligations of the common law, was repeatedly copied into the legislation of our states and set on foot the restless movement with which we have become so familiar, and which from year to year, in accordance with the prevailing sentiment of state legislatures, has either imposed increasing duties upon

the employer or qualified or removed in corresponding measure his former defenses at the common law.

Years ago Lord Herschell epitomized the master's ancient duty to his employes in this brief statement: "The employer is bound at common law to carry on his business so as not to expose workmen to unreasonable risks." Out of the delicate undertaking involved in ascertaining in each case the character of the reciprocal duties of the employer and assumed risks of the employe arises the variety of technical difficulties with which the application of the law of negligence has made us familiar.

In the elder day, an employer, like all other persons, was under the broad, elementary obligation to so use his property and conduct himself as not to cause injury to others. This obligation rested upon him with respect to those who entered his service not less than to those who were outside of it. The employer at the common law was, at all times, liable to his employe, even as to a stranger, for the consequences of injury caused by his *personal* negligence or his failure to perform any duty placed upon him by statute. His special obligations to his workmen required him to supply and maintain a reasonably safe place in which to work, equipped with reasonably safe machinery and appliances, and to exercise in the selection of fellow servants that degree of care which would characterize an ordinarily prudent man, and to provide for employes rules for their instruction and guidance. But while the common law made the employer liable for his personal negligence, it did not hold him liable for the negligence of those to whom he delegated the control, direction or management of his business, or

Obligation
Under the
Common
Law

Employer
not Liable
for Negligence
of his Agent

**Conduct that
Relieved
Employer
of Liability**

any part of it, nor for any injury suffered by one employe through the negligence of another employe engaged in the same employment. In any action brought against him by one of his workmen for injury received in the course of employment, the employer was relieved of liability if he could show that the injured man had agreed to take the risk of his employment, even though that risk resulted from the employer's own failure to perform a common law duty; or if he could show that the workman had himself contributed by his conduct to his own injury, or had been injured through the negligence of a fellow workman or some person to whom the employer had transferred his own power of direction and control, except that the employer was never allowed to delegate to another any specific duty placed upon him by a statute.

**Indemnification
Personal**

Whenever liability was established, it required the employer in every case to indemnify the injured workman personally. No right of action was possessed on his behalf either by his family, his relatives, his dependents, or his personal representatives, or his estate. If a workman was killed by accident or died in consequence of it, his right of action died with him, no matter how great might have been the negligence of his employer. If, under like conditions of injury, a workman survived and sued, the death of the employer before judgment was awarded likewise barred recovery.

A general perception of the hardships arising from the doctrine that a personal action dies with the person in whom it exists, led to the first statutory modification of the common law in 1846, by the passage of what was commonly known as "Lord Campbell's Act"

or "The Fatal Accidents Act of 1846." This measure gave to the personal representative of anyone whose death was due to the wrongful act or neglect of another, the same right of action which would have been possessed by the deceased had he survived. A just and much needed remedy was thus conferred upon the family or dependents of a workman whose death was caused by negligence. But neither this statute nor any other which succeeded it prior to the Compensation Act gave any right of action against the estate of an *individual* employer to whose negligence death or injury might be due. Thus, even under Lord Campbell's Act, damages claimed for death due to negligence were required to be recovered from an individual employer during his lifetime, for no action could be maintained against his estate.

Extension
of Liability
to Representa-
tives

As time brought changes in forms and methods of production and the factory system originated and developed, the individual employer retired more and more from personal contact with his workmen and was succeeded by managers or superintendents exercising control and direction in his stead. Likewise the individual employer gave way to the corporation operating through its directors and managing officials. With these changes the proof of personal negligence became increasingly more difficult, until, where the employer was a corporation, it was substantially impossible.

Difficulty of
Proving
Liability

The personal liability of the employer was still further limited by another important consideration. The general principle that each individual is responsible for his own acts but not those of another was subject to one marked exception. At the common law the master had

Origin of
"the Fellow
Servant
Doctrine"

always been held liable for the acts of his servants within the scope of their authority. In 1837, in the now famous case of *Priestly vs. Fowler*,^(a) it was held that the master was not liable to one servant for injury due to the negligence of a fellow servant engaged in the same employment. This decision originated the much discussed principle of common employment, or, as it is more popularly known in our own country, "the fellow servant doctrine."

Its Intro-
duction into
American
Law

A powerful decision of the Supreme Court of Massachusetts, written by its then Chief Justice Shaw, introduced this ruling into American jurisprudence in 1842.^(b) It rapidly prevailed in other states and became an accepted principle of American law. It was here interpreted, however, with such restrictions that, generally speaking, it has never been given the extreme application which obtained in England. In Great Britain the principle was carried to a point at which it practically covered all persons engaged in a common employment without regard to rank. Thus it was there held that the general manager of a railway company was in common employment with a platelayer,^(c) the captain of a ship with one of the ordinary seamen,^(d) a miner with the overseer or superintendent of a mine.^(e)

Our federal and state courts at no time went so far in applying this important principle, but they nevertheless

(a) 3 M. & W. 1.

(b) *Farwell vs. Boston, etc., R. R.* 4 Met. 49.

(c) *Conway vs. Belfast & Northern R. R. Co.*, 11 Ir. L. R. 345.

(d) *Hedley vs. Pinkney & Sons Steamship Co.*, 1 Q. B. 58; 61 L. J. Q. B. 179.

(e) *Hall vs. Johnson*, 3 H. & C. 589.

became involved in many confusing and contradictory decisions due in all likelihood to the lack of an accurate and generally accepted definition of common employment. "There is probably no one matter," said the Supreme Court of the United States, "upon which there are more conflicting and irreconcilable decisions in the various courts of the land than the one as to what is the test of common service such as to relieve the master from liability for the injury of one servant through the negligence of another."^(a)

Confusion
of the
Liability Laws

It is interesting to observe that the defense of common employment was unknown to the Civil Law of Europe and that contributory negligence did not as a rule bar recovery, but was rather an element modifying the amount of damages.

The principles enunciated in 1837 became permanent law by a decision of the House of Lords in 1858,^(b) and from that time there was a continuous agitation for the abolition or modification of the defense of common employment. In 1877 a bill was submitted and considered by a committee of the House of Commons which proposed to make the employer responsible for the negligence of persons entrusted with the duties of superintendence and who were to be legally designated as "vice-masters." The committee, however, refused to recommend the measure. In 1879 the government proposed that corporations should be held liable for injuries caused by the negligence of their manager or managers. This, however, was also

(a) B. & O. R. R. vs. Baugh, 149 U. S. 368.

(b) Bartonshill Coal Co. vs. Reid, 3 Macq. H. L. Cas. 266.

withdrawn. Finally, in 1880, the government introduced and enacted what has since become known as the Employers' Liability Act of 1880.^(a) The purpose of this measure, it was stated, was to "bring back the law to what it was supposed to be in England before the case of *Priestly vs. Fowler*."

The new Act provided: "The same right of compensation and remedies against the employer as if the workman had not been a workman, nor in the service of the employer, nor engaged in his work."^(b) It imposed upon the employer, whether an individual or a corporation, liability:

New Features
of the
Employers'
Liability Act
of 1880

- "1. For defective ways, works, machinery and plant.
2. For the neglect of his superintendents.
3. For the neglect of persons to whom he delegated his powers of giving orders
4. For defective by-laws and instructions.
5. In the case of railway companies, for the negligent management of trains, points and signals."^(c)

The Act seems at first to have been a subject of much popular misunderstanding. It is and was asserted to have completely abolished the doctrine of common employment, and it created considerable alarm from a general assumption that it imposed extremely onerous obligations. As the statute was subjected to interpretation, it became clear that with respect to the employer's *personal* liability for injuries arising from defects in his ways,

(a) 43 and 44 Victoria, c. 42.

(b) 43 and 44 Victoria, Sec. 1.

(c) Ruegg's Employers' Liability, etc. (8th edition), p. 103.

works, machinery or plant of which he had or could be presumed to have knowledge, no addition had been made to his common law liability. The real increase of obligation consisted in making him responsible for the negligence of those to whom he delegated permanent or temporary duties of supervision, and to that extent *only* the Act of 1880 modified the doctrine of common employment.

In an action at common law, the amount of compensation recoverable for personal injury due to negligence was not limited. In the Act of 1880, recovery was expressly limited to a sum "equivalent to the estimated earnings during the three years preceding the injury, of a person in the same grade employed during those years in the like employment and in the district in which the workman is employed at the time of injury."^(a)

Compensation
Under the
Act of 1880

The Act of 1880 was closely followed by several of our states. In many others, it supplied the inspiration for modifying or greatly restricting the defense of common employment as well as that of assumed risk. No state followed the British example, however, in providing equal limitation upon recovery. Indeed, in some of our states a constitutional provision prohibits the legislature from restricting the amount of damages recoverable for injuries resulting in death.

From this brief review, it must be fairly evident that under the common law and its statutory modifications by Lord Campbell's Act and the statute of 1880, the liabilities of the British employer are by no means equal

American
Employers'
Liability
Greater than
British

^(a) Sec. 3.

**Comparative
Compensation**

to the obligations existing in most of the American states, while the British workman prosecuting an action for personal injury was at a decided, indeed distressing, disadvantage in comparison with an American workman, both with regard to the nature of his remedies and the amount recoverable.

CHAPTER NINE

The Introduction of the Compensation Principle by the Acts of
1897 and 1900 and the Investigation of the Operation
of this Legislation by the Departmental
Committee of 1904

CHAPTER IX

THE INTRODUCTION OF THE COMPENSATION PRINCIPLE BY THE ACTS OF 1897 AND 1900 AND THE INVESTIGATION OF THE OPERATION OF THIS LEGISLATION BY THE DEPARTMENTAL COMMITTEE OF 1904

The Act of 1880 by no means stopped agitation for a further increase of employers' liability. From 1893 to 1897 several measures were presented by Mr. Asquith, and others, to secure either abolition of the doctrine of common employment, or further modification of the defense of assumed risk. In 1893, on the second reading in Parliament of a bill for the latter purpose, the first step towards the principles later embodied in the Compensation Act of 1897 was taken by Mr. Chamberlain, who offered an amendment to the pending bill, declaring "that no amendment of the law relating to employers' liability will be final or satisfactory which does not provide compensation to workmen for all injuries sustained in the ordinary course of their employment, and not caused by either their own acts or default."^(a)

Additional
English
Liability
Legislation

In 1897 Parliament passed the first compensation measure, professedly following the underlying principles of the German Act of 1884, but, unlike its exemplar, it did not establish an insurance fund. This law in effect wrote

(a) Hansard, Vol. VIII, 1961 (1893).

Provisions
of the Act
of 1897

into every contract of employment, a term making every employer personally liable to pay limited compensation for personal injury received by a workman in the course of employment, except it were due to his own serious and willful misconduct. "Whatever the true economic view may be as to the ultimate incidence of the cost of compensation, a burden of greater or less weight was, in the first instance at all events, thrown upon the employer and a benefit conferred on the workman."^(a) The liability imposed was independent of fault on the part of either party, and within the limits prescribed in the Act. The amount of compensation was determined, not in an action at law, but either by agreement of the parties applying the terms of the measure to themselves, or, failing in that, by a private arbitrator agreed upon by the parties, or a judge of the county court sitting as an arbitrator under a simplified procedure.

Conditions of
Compensation

No compensation was payable until disability from injury had endured two weeks. Weekly payments then became due proportionate to the degree of disability but in no case exceeding half the weekly earnings of the injured man, with a maximum limit of £1 (\$5). If the injury resulted in death, persons within certain degrees of relationship, dependent for their support upon the earnings of the deceased, were entitled to compensation equivalent to his earnings for three years preceding the accident, but not in any case less than £150 (\$750) nor more than £300 (\$1500), the amount payable to be determined within these limits in accordance with the degree of dependency of the claimant.

^(a) Report Departmental Committee (1904), p. 12.

The Act aimed at substantial relief, not complete indemnity. Compensation was therefore theoretically to continue during disability. Hence provision was made for the revision of the award in accordance with the increase or decrease of the existing disability.

The Act was professedly of an experimental character and was expressly confined to seven groups of presumably hazardous industries. It applied to employment on or about a railway, a factory, a mine, a quarry, engineering work, and "a building which exceeds thirty feet in height and is either being constructed, or repaired by means of scaffolding, or being demolished, or on which machinery driven by steam or water or other mechanical power is being used for the purpose of the construction, repair or demolition thereof."

Scope
of the Act

In 1900 the terms of the Act were extended to agriculture which included, "horticulture, forestry and the use of land for any purposes of husbandry, inclusive of the breeding of live stock or bees, and the growth of fruit and vegetables."

The remedies existing at common law and by statute were neither abolished nor modified but continued concurrently with the new Act. The injured worker was, however, in theory, compelled to make an election, either to pursue his remedy at law or under the Compensation Act. But it was provided that if he failed in proceedings at common law or under the statute, he could apply to the judge in whose court his abortive action had failed, for an award of compensation under the Act, subject, in the discretion of the judge, to the subtraction of such costs as were caused by the legal proceedings.

Repeal of
the Act

It is not essential to examine at length the terms of this measure. It was repealed by the existing legislation of 1906, to which extended consideration is subsequently given. We are, however, deeply interested in the history of its practical effects. For the sweeping extension of its principles following the avowedly tentative adoption of them in 1897 necessarily produces a general impression that the experiment must have fulfilled the hopeful expectations of its advocates. The generality of men would likewise conclude that the Act of 1906 expressed in its terms much experience derived from careful observation of the operation of its predecessor. Let us consider whether or not the facts of the matter give support to such natural presumption.

Imperfections
of the Act
of 1897

Defects of form became evident in the earliest stages of the enforcement of the Act of 1897. Ambiguities of language and contradictory sections hindered and obstructed its administration and enforcement. Effect was given to its provisions only by what was generally recognized as arbitrary and indeed artificial distortion of language. Docks, wharves, quays and even ships were included by construction within the term "Factory," and workmen found themselves moving in and out of the Act in accordance with the circumstances of their employment. One of the most prominent of English legal authorities defied the Society of Architects to determine when a building was "30 feet in height."^(a) The Court of Appeals was inclined to believe that a loose board thrown upon the roof of a building might, within the terms of

^(a) Ruegg Lectures "Employer and Workman in England," Lecture V, p. 149.

the Act, be a "scaffolding."^(a) One distinguished judge, in the course of a decision, scathingly declared: "The Act is drawn in such extraordinary fashion and the methods of arriving at its meaning are so complicated, that it is not easy to deal with it on broad grounds of common sense."^(b) These exasperating and costly errors were widely acknowledged and deprecated, but the irritation, expense and delay which they caused through many years of litigation remained largely unremedied. They should be full of suggestion in the dangers that attend poor draftsmanship in legislation.

Errors of language are, however, easily cured; it is those of principle which are difficult to remedy. We are far more interested in the practical operation of these principles than the difficulties which arose from their expression in inapt and artificial language. What does the statistical record of the Act disclose? Did it unduly burden industry? In how many cases was compensation annually paid? How did it affect its beneficiaries? How do the charges in one industry compare with those in others? To what extent is insurance resorted to? These and many other inquiries naturally arise in the mind. Strange to say, there is no record from which they can be answered. No provision was made in the Act or elsewhere for the collection of information respecting it. From 1897 to 1904 the only information of its operation is to be had from the records of the county courts, disclosing the number and nature of arbitrated claims for

Operation
Act 1897
Unrecorded

(a) Veazy vs. Chattle, 1 K. B. 494.

(b) Collins L. J., Hennessey vs. McCabe, L. J. Q. B. 175.

compensation, estimated to be less than 6 per cent of the total number of cases in which compensation was paid. The strange spectacle is presented of a proverbially conservative Parliament enacting legislation of an avowedly experimental character and proceeding to enforce it with no provision for ascertaining the results of the experiment.

Creation
of the
Departmental
Committee
of 1904

Except for the fragmentary administrative information represented in compensation litigation, there is no official source of information respecting the Act of 1897, save the report of the Departmental Committee appointed in 1904 to make recommendations respecting the amendment and extension of the Act. This body consisted of five members, including a representative employer, a prominent trade union leader, and government officials. It alone possessed, during the term of its existence, power to summon witnesses and gather evidence respecting the working of the Act. From its investigations we should expect to learn the conclusions which led to the legislation of 1906.

Preliminary
Inquiries of the
Committee

As a preliminary to recommendations concerning the extension of the Act, the Committee undertook to do precisely what we wish to do—"to form some estimate of the way in which this great experiment in legislation had worked; to inquire whether it fulfilled expectations formed some years ago; and what weak points had been disclosed."^(a) The Committee gathered information during some 37 meetings at which a great number of witnesses were examined.

(a) Report Departmental Committee (1904), p. 13.

This body began by propounding for its own guidance a series of very interesting questions, the replies to which, representing the conclusions of the Committee, relate the operation of the Act. Chief among these interrogatories were the following:

Questions
Investigated
by the
Committee

1. "Have these Acts (1897 and 1900) in their operation been unduly productive of litigation; if so, to what cause can this result be attributed and how far can the evil be mitigated?"

2. "Have they tended to prevent the occurrence of accidents in the industries to which they have been applied?"

3. "How have they affected accident benefit funds?"

4. "Have they imposed or are they likely to impose any undue burden on the employer?"

5. "Has their operation on the whole been beneficial to the workman?"(a)

The Committee began its investigation with the complaint that the greatest difficulty arose "from the fact that there was no provision in the Act, or elsewhere, for the collecting of statistics as to the working of the Act."

Proceeding to investigate its First question, the Committee found: "various defects both in the Act itself and the machinery by which it is enforced, which in our own opinion gave rise to much preventable litigation." It was of the further opinion that one of the chief causes of litigation was to be found in what it deemed the "unsatisfactory provision," that where the workman failed in an action at law the court may assess compensation

Findings to
Question One

(a) Report Departmental Committee (1904), p. 13.

under the Act, deducting, in its discretion, the costs of the unsuccessful proceeding. "This," said the Committee, "has been found to offer a strong temptation to the less scrupulous class of solicitors to bring speculative actions on behalf of their clients under the Employers' Liability Act, or in some cases at common law, with a view to driving the employer to settle on advantageous terms.

* * * We think that this provision has worked largely to the disadvantage of both employer and workman and is responsible for a large quantity of illegitimate litigation."^(a) The Committee regarded the total volume of litigation as small in comparison with the great number of cases settled by agreement.

Findings to
Question Two

Responding to the Second question, the Committee reached the surprising and it would seem somewhat discouraging conclusions in view of the expectations aroused to the contrary by the strong assertions of advocates of the Act, that "No evidence has been brought before us which enables us to find that any great improvement in the direction of safety is to be placed to the credit of this Act. Indeed, some evidence rather points in the opposite direction."^(b) The Committee emphasized the fact "that the machinery of German insurance associations is directed towards securing greater safety of the workman." And again, in concluding, it is reiterated: "On the whole, therefore, we feel unable to come to the conclusion that the operation of the Compensation Act of 1897 has had

(a) Report Departmental Committee (1904), p. 19.

(b) Report Departmental Committee (1904), p. 22.

any marked or ascertainable effect, one way or the other, upon the safety of the workman.”^(a)

Answering its Third query, the Committee responds: ^F
“We think that the evidence has shown that their opera- ^Q
tion (the Acts of 1897 and 1900) has been largely to put an end to those societies for accident compensation which previously were supported by the joint contributions of employers and workmen.”^(b) It was concluded that the dissolution of these organizations was due in a great number of instances to the discontinuance of the contributions by the employers, who, said the Committee, “can hardly be expected to contribute to these funds as well as to bear the burden thrown upon them by the Act.”^(c)

The Fourth question impressed the Committee with special gravity, for it said: “Whatever may be the true view as to the incidence of the burden of compensation for accidents, it seems plain that if the cost thrown at all events in the first instance on the employer is excessive, the ultimate loss consequent thereon will fall with equal or greater weight upon the workman, either by the diminution of wages, or loss of employment, or loss through the insolvency of the employer.”^(d) The evidence before the Committee presented urgent need for a clearer definition of the rights and liabilities of employer and employe. “This involves the removal of certain anomalies and distinctions, based on no ascertainable prin-

(a) Report Departmental Committee (1904), p. 23.

(b) Report Departmental Committee (1904), p. 23.

(c) Report Departmental Committee (1904), p. 24.

(d) Report Departmental Committee (1904), p. 25.

ciple, which at present tend to create a sense of inequality and injustice.”^(a) Employers in England as in America, were evidently complaining, not so much of the actual cost of compensation, as that most unsatisfactory of all the conditions, one of uncertainty as to the nature of their liability under the Act. The Committee expressed its conclusions respecting the Fourth question as follows:

Findings to
Question Four

“1. That the pecuniary burden imposed by the Act upon the employer has not been excessive.

2. But the burden tends to increase especially in consequence of the rapidity at which claims are growing and the burden which is necessarily imposed by the increasing number of permanent cases, and that the Act of 1897 has not been sufficiently long in operation to permit of any really trustworthy estimate being formed of the limits which this increase will ultimately reach.

3. That if this last inference is well founded, the greatest caution is required before the personal liability already imposed by the Act on the employer is materially increased, especially by any legislation which may add to the indefiniteness and uncertainty of that liability, unless there are paramount reasons for the suggested change.”^(b)

The Committee emphasizes in remarkable language its belief in the extreme importance of the functions undertaken by mutual insurance associations of employers: “If these associations receive further development and more complete organization, and are extended to other industries, the solution of many difficulties which beset the

(a) Report Departmental Committee (1904), p. 25.

(b) Report Departmental Committee (1904), p. 33.

working on the Act may be found, which will operate in furtherance of the interests of both employers and workmen."^(a)

The conclusions in reply to the Fifth question were of paramount importance. They determine, and in a special degree, whether or not the Act accomplishes the benefits sought.

Findings to
Question Five

The Committee found little complaint as to the adequacy of the compensation provided, but much as to the insufficiency of provisions against the insolvency of the small employer. The latter difficulty was frankly declared to be inseparable from any system resting upon the personal liability of the employer. But the most serious charge brought against the Act by laboring men themselves was that the measure had a marked effect upon the employment of elderly or maimed persons.^(b) Government officials, officers of the largest trade unions, representatives of great industries and employers, and insurance organizations alike offered conclusive evidence that elderly and defective workmen faced an ever increasing difficulty, not merely in retaining their present employment, but in obtaining new employment, because of the serious risk which their condition presented under the increased liabilities of the Act. "The evidence," says the Committee, "has led us to the conclusion that the Workmen's Compensation Acts have largely increased the difficulties of old men finding and obtaining employment.

(a) Report Departmental Committee (1904), p. 33.

(b) Report Departmental Committee (1904), pp. 38-39-40.

We fear that the tendency is for these difficulties to grow. * * * A somewhat different question arises in reference to diseased, weak, or partially maimed persons. In the case of the latter there is distinct evidence that in many cases they are refused employment at their old trade although perfectly capable of earning full wages^(a) * * * It appears to us that the operation of the Act, as it stands, both as regards old, infirm, and those who have been maimed, has proved a serious drawback to the advantages which in other respects it has conferred on the workman."^(b)

Remedies
Suggested by
Committee

To remedy this serious condition the Committee suggested that infirm or defective persons should, upon the certificate of a medical referee, be permitted to contract out of the Act on special terms as to compensation, due care being had to guard such a provision against abuse.

Turning from an examination of the practical operation of the Act, the Committee gave attention to the subject of its amendment. In the course of this task it had occasion to examine the practical operation of the only bar to the recovery of compensation, the serious and willful misconduct of the injured person. The Committee commented on the fact that all the representatives of the trade unions who appeared before it could mention but two cases in which the question of serious and willful misconduct had arisen, while it quoted Judge Ruegg, generally regarded in England as perhaps the highest authority upon the construction of the Act, as giving his opinion

(a) Report Departmental Committee (1904), p. 39.

(b) Report Departmental Committee (1904), p. 41.

“that it was practically impossible, whatever a man does, to get a finding of serious and willful misconduct against him.”^(a)

The Committee was urged to recommend that the period of disability during which compensation was not paid be reduced from two weeks to one, but it sharply refused, declaring “the transference to the employer of the burden of the compensation for the whole or any part of the first two weeks would be a grave departure from the system deliberately adopted by the legislation of 1897.”^(b) “There are no sufficient reasons to justify us in making any recommendations to this effect.”^(c) The Committee attached great importance to the amendment providing for the appointment of a medical referee whose evidence as to the condition of an applicant for compensation should be conclusive. It declined to recommend any general extension of the provisions of the Act.

Throughout the entire report of the Committee flows evidence, continually increasing in volume and strength, of the fact that the investigation convinced its members that the whole basis of compensation should be changed by substituting *insurance* for *personal liability*. Referring to the difficulty of affording any certain relief to the workman of the small employer, it said: “That there must always be a serious risk of the insolvency of the employer seems to us an inevitable consequence of the adoption of a principle of personal liability instead of that of

Committee
Favored
Insurance
to Personal
Liability

^(a) Report Departmental Committee (1904), p. 66.

^(b) Report Departmental Committee (1904), p. 76.

^(c) Report Departmental Committee (1904), p. 76.

compulsory insurance under proper regulations.”^(a) Again they declare: “It appears impossible to guard against this difficulty in a wholly satisfactory manner, unless the security of a solvent insurance fund is substituted for the personal responsibility of the individual employer.”^(b) The very object of the Act, asserts the Committee, is to provide “an indirect method of compulsory insurance rather than to enforce any ordinary legal obligation.”^(c)

Recommendation of Compulsory Insurance as Most Effectual

So time after time, as the experience of witnesses developed new perplexities, the Committee falls back upon the insurance fund as the, only, all sufficient remedy. “We anticipate that the remedies under the old law will fall more and more into disuse and that the minds of the legislature will be directed to the improvement or extension of the best form, whether direct or indirect, of compulsory insurance.”^(d) “Our difficulties * * * are intensified by the fact that our system of compensation is appearing to rest entirely upon the personal or individual liability of the employer and is not cast upon a fund regulated by special legislative provisions.”^(e)

Such are the opinions and conclusions expressed by the only authoritative public body which, between the passage of the Act of 1897 and the advanced measure of 1906, undertook to investigate the practical effects of the compensatory principle in the form given it by the British Parliament.

(a) Report Departmental Committee (1904), p. 38.

(b) Report Departmental Committee (1904), p. 121.

(c) Report Departmental Committee (1904), p. 93.

(d) Report Departmental Committee (1904), p. 93.

(e) Report Departmental Committee (1904), p. 40.

CHAPTER TEN

**The Final Extension of the Compensation Principle
The Act of 1906, Outline of its Provisions
and Examination of the Nature and
Extent of its Liabilities**

CHAPTER X

THE FINAL EXTENSION OF THE COMPENSATION PRINCIPLE

THE ACT OF 1906, OUTLINE OF ITS PROVISIONS AND EXAMINATION OF THE NATURE AND EXTENT OF ITS LIABILITIES

The Act of 1906 is Great Britain's last and broadest application of the compensation principle. It repealed the preceding legislation of 1897-1900 except as to claims existing under them. Rights of action at common law or by statute remained unaffected, but subject, as we shall see, to use as alternative but not consecutive remedies.

Act of 1906
the Latest
British
Liability Law

We shall briefly outline the Act, examining the nature and extent of its liabilities and its methods of administration, confining our attention to provisions of substantial importance and omitting reference to a variety of minor details.

The Act provides in effect that every employer, individual or corporate, in any employment shall be liable to his workmen for personal injury by accident, arising from and in the course of employment, where the injury is of such a character as to disable the workman for at least one week from earning full wages at his employment; provided that the injured workman is not earning more than £250 (\$1,250) per year, except he be engaged in

Provisions
of Act of 1906

manual labor, in which event the amount of his earnings is immaterial. No injury is to be compensated if caused by the worker's own serious and willful misconduct unless it results in death or serious and permanent disability.

**Occupational
Disease**

Such occupational diseases as are named in the Act, or may from time to time be designated by the Secretary of State in his discretion, are legally to be considered "accidents" and compensated as such, under conditions hereafter described. Six diseases were specified in the Act and 18 have since been added thereto by order of the Secretary.

**Amount of
Compensation**

The Act entitles an injured workman during the period of his incapacity to weekly payments which shall not exceed 50 per cent of his previous weekly earnings and in no event more than £1 (\$5) per week, the specific amount being determined by the degree of incapacity following the injury, the award being subject to diminution or enlargement as disability diminishes or increases. In case of death from injury, "dependents" named in the Act, and including an illegitimate child or children, are, in accordance with the degree of dependence, entitled to not less than a total of £150 (\$750) nor more than £300 (\$1500), either from the employer or his estate. If the workman leaves no dependents the employer is liable to pay not to exceed £10 (\$50) for medical and funeral expense.

**Contracting
Out of the Act**

Contracting out of the Act is forbidden except where employer and employee agree to a substitute scheme which the Registrar of Friendly Societies approves, after ascertaining by ballot that a majority of the workmen af-

fects agree to it and that the scheme confers benefits equal to or greater than those of the Act.

Notice of accident must be given, unless otherwise excused, as soon as practicable after its occurrence and before the injured person voluntarily leaves the service of the employer. The claim for compensation, unless excused, must be made within six months from the occurrence of the accident or the date of death resulting therefrom.

Notice of
Accident and
Filing Claims

Compensation awarded may be enforced by the ordinary process of execution or by what is known as a committal order under the Debtors' Act of 1869, and when paid is not subject to attachment. In the event of the insolvency of the employer, a workman awarded compensation is a preferred creditor to the extent of £100 (\$500), but if an insolvent employer's liability be insured, a claim vests in the workman against the underwriter, equal to but not greater than that possessed by the employer on his behalf.

Mode of
Collecting
Claims

The administration of the Act contemplates that employer and employee shall, in the first instance, endeavor by agreement to apply its provisions to themselves. In the event of a dispute as to facts or the application of the law, and in that event only, arbitration may be had. For this purpose employer and workman may agree upon a committee or a single arbitrator, or they may apply to a county judge who shall sit as an arbitrator, and who, in the event of his inability to do so, may, with the consent of the Lord Chancellor, appoint a substitute to sit in his stead, with such power as he would himself possess. Lay arbitrators may submit questions of law to a county

Administration
of Act

judge. On findings of fact, the decision of the arbitrator is final, but appeal may be had on questions of law to the Court of Appeals, and finally to the House of Lords.

Revision of
Compensation
and Medical
Examination

A workman giving notice of an accident must, if required by the employer, submit to examination by a duly qualified physician provided and paid by the employer. Refusal of such examination or its obstruction suspends the right to prosecute the claim for compensation until such examination takes place. After compensation is awarded, the recipient may, at such intervals as are designated in rules made by the Secretary of State, be required to submit to further medical examination by a physician provided and paid by the employer, who may thus ascertain whether or not the disability continues. The evidence of a physician making such examinations is not, of course, conclusive as to the workman's physical condition, but upon application *signed* by *both employer and workman*, and in that event only, the Registrar of a county court may appoint a medical referee whose certificate as to the physical condition of the workman, his fitness for employment or the question of whether or not his incapacity is due to the accident described, is conclusive evidence binding upon both parties. Any lay or judicial arbitrator may ask for a report of the medical referee on the physical condition of an applicant for compensation, but except under the conditions described, neither the parties to the controversy nor the arbitrator are bound by the report.

A workman may not recover for injury received during employment both at law and under the Act, but as, under the Act of 1897, a plaintiff, failing in an action

under the Liability Act or at the common law, may immediately ask the judge of the court in which the abortive action has been brought, to assess his claim, if one there be, under the Compensation Act. In such event, the court may, in its discretion, deduct from the compensation awarded all or part of the costs incurred in the defeated proceeding at law. As a matter of practice, under these circumstances judges rarely assess more than a moiety of the costs caused by the legal proceeding. It is difficult to understand why this provision was allowed to remain in the Act of 1906 in view of the emphatic protest against it by the Departmental Committee in 1904. "We think," said that body, "the power to assess compensation after unsuccessful proceedings under the Employers' Liability Act should be repealed. * * * It is no protection whatever to impose upon the workman who fails the obligation to pay, or the liability to have a deduction of costs from his compensation. The employer has in practice to bear all his own costs, whether he succeeds or not."^(a)

Workmen
May Secure
Compensation
After Action
at Law

To ascertain the nature and extent of the chief liabilities imposed by the Act, we briefly examine the language from which they arise. Who is a "workman"? What is "personal injury by accident"? When may it be said to arise "out of and in the course of employment"? What conduct, if any, upon the part of the workman bars recovery of compensation? The answer to these queries not only enables one to understand, substantially, the character and extent of the obligations created, but to

Nature of
Liability
Imposed

^(a) Report Departmental Committee (1904), p. 93.

realize the legal and practical effect of introducing such terms into our own legislation, where, in conjunction with similar purposes, they would be expected to convey the meaning attributed in the jurisdiction from which they were taken.

Definition of
a "Workman"
Under the Act
and "Excepted"
Persons

A "workman" within the meaning of the Act is any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labor, clerical work or otherwise. It is not, however, to include individuals in these classes earning more than £250 (\$1,250) per year, except from manual labor; or "a person whose employment is of a casual nature," except it be for the purposes of the employer's trade or business. A member of the police force, an out-worker or a member of the employer's family in his service but dwelling in his house, are also excluded from the operation of the Act.

Meaning of
"Casual
Labor"

It might seem at first that most "casual labor" was outside the Act. This, however, is not true. All casual labor serving an employer in his "trade or business" is within the Act. Thus, if a householder employed a person to repair his home, damaged during a storm, he would not be liable to the workman in event of his injury during the job, but if the householder, being a merchant, engaged a person to deliver even a single package or do an errand in the execution of his business, that person, if injured during the employment, would be within the Act. It is the employment of the individual which must be casual and not the work. Thus a washerwoman accustomed to come certain days in each week and do

laundry work is not casual labor,^(a) while a window cleaner, given a chance job, is casual labor.^(b) Further-
Casual
Labor
Illustrated
 more, it is the trade or business of the employer and not of the person employed which may determine the application of the Act. Thus a traveler engaging a porter to carry his bag to or from a train employs him for a private purpose with reference to the traveller, although it is the regular business of the porter, and the porter would not be within the Act, if injured. If, however, the traveler, being engaged in selling goods, hired the porter to carry a bag containing samples or wares, with the aid of which business was transacted, the injury of the porter during such employment by an accident arising from it, would probably render the traveler liable. Every person given chance employment for however brief a period, in pursuance of the employer's business, is within the Act. Every person working under a contract of service or apprenticeship, written or implied, is within the Act unless he is specifically excluded from it.^(c)

No one has yet undertaken to enumerate all the classes of workmen coming within the scope of the Act. It has been roughly estimated that some thirteen millions of the population of Great Britain are within its terms. One distinguished British legal authority has offered a partial list of the classes of workmen included under the Act, expressly insisting, however, that his list is illustrative and not exhaustive. He embraces within the measure:

(a) *Dewhurst vs. Mather*, 2 K. B., 754 (1908).

(b) *Hill vs. Begg*, 2 K. B., 802 (1908).

(c) *Ruegg Workmen's Compensation*, 8th ed., 273.

Occupations
Within the
Scope of
the Act

1. Railway servants.
2. Workmen in factories and workshops, including docks, wharves, quays, warehouses, etc.
3. Workmen in mines.
4. Workmen in quarries.
5. Workmen in engineering work.
6. Workmen in building work.
7. Workmen in agriculture.
8. Servants and assistants in shops, inns, hotels, public houses.
9. Domestic or menial servants.
10. Seamen (subject to the special provisions of the Act).
11. Drivers and conductors of public vehicles.
12. Clerks in banks, insurance or trading offices (subject to limitation as to salary).
13. Clerks, assistants, messengers in government, county or municipal offices.
14. Persons engaged in the management, driving or control of horses or other animals, or automobile conveyances.
15. Persons in the permanent employ, under contract of service, of hospitals and other philanthropic institutions.
16. Persons in the permanent employ, under contract of service, of religious establishments, colleges, or schools, besides many other smaller classes too numerous to mention. (a)

(a) Ruegg Employers' Liability, etc., 8th ed., p. 285.

To these may be added professional players taking part in sports and games. In this country the term would include baseball players.^(a)

In connection with the term "workman" it should be noticed that the compensation awarded under the Act is determined by the "earnings" of the workman at the time of injury. This is a broader term than either wages or salary, for it may include not only pay, but the value of any benefit or privilege arising from the employment, such as the rental value of a house which the workman is permitted to occupy in the course of his employment, or supplies or other things which were part of his remuneration. Even gratuities habitually received in the employment are part of the "earnings."^(b) More than that, the "earnings" of an injured person are to be determined not merely by what he receives from the employer in whose service he was injured, but in addition thereto, whatever he may have earned in other "concurrent" employments. Thus, if he worked part of the day for one employer and served as night watchman for another, his "earnings" would be estimated by his income from both employments.^(c) Indeed, if he be in the concurrent service of a number of employers, the one in the course of whose employment he is injured must, if liable, compensate him, not on the basis of his "earnings" with that employer alone, but on the basis of his "earnings" from all concurrent employment.^(d)

Compensation
Under the Act
Determined
by "Earnings"

(a) Walker vs. The Crystal Palace Football Club, 1 K. B., 87 (1910).

(b) Penn vs. Spiers & Pond, 1 K. B., 706.

(c) Bevin Workman's Compensation, p. 546.

(d) Dewhurst vs. Mather, 2 K. B. 754 (1908).

The words "arising out of and in the course of employment" might, on their face, cause a layman to suspect that the measure provided for injuries received away from work as well as when engaged in it. But this is not its intention, we are assured, however far some decisions may seem to go.

When
"Accident"
"Arises Out of
and in the
Course of
Employment"

The locality in which an injury is received is immaterial, provided the injured person is pursuing his employment. It is not necessary that he should actually be at work. He is covered by this provision of the Act on his way to the pay office of the employer^(a) or returning from it to his work, even though, in the latter case, he should get on the wrong street car and in correcting his mistake be knocked down by a passing wagon.^(b) This provision further protects him from the time of arrival upon the employer's premises, for a reasonable period before going to work^(c) and likewise on leaving the employer's premises at the conclusion of his work^(d) even though he does not use the usual way.^(e) If a domestic servant loses her life in an accidental fire which destroys the house of the employer, in which she is sleeping, her death arises out of the course of her employment and her dependents are entitled to compensation.^(f)

Two instances may serve to suggest the novel cases which have arisen under this provision and the distinc-

(a) Lowry vs. Sheffield Coal Co., 24 T. L. R. 142 (1907).

(b) Nelson vs. Belfast Corporation, 42 Ir. L. T. 223.

(c) Lowless vs. Wigan Coal & Iron Co., Ltd., 124 L. T. Jour. 532 (1908).

(d) Cremens vs. Guest Keen & Nettleford, 24, T. L. R. 189 (1907).

(e) McKee and Others vs. Great Northern R. R. Co., 42 Ir. L. T. 132 (1908).

(f) Chitty vs. Nelson, 126 L. T. J. 172 (1908).

tions observed in construing its terms. A lady's maid, while sewing for her mistress near an open window, was startled by a "cockchafer," a large insect, which flew through the window. Instinctively throwing up her hand at its approach, the maid struck her eyeball with her own thumb, resulting in a serious impairment of the vision. She applied for compensation, and it was held that while the injury occurred "in the course of employment," it did not "arise out of it."^(a) A teamster, while lunching on his employer's premises, was bitten by the stable cat. Blood poisoning ensued and two fingers were subsequently amputated. This was held by the Court of Appeal to be an accident "arising out of and in the course of employment," although the Court intimated that the decision might have been otherwise had it been shown to be "a strange cat."^(b)

Instances
Showing
Distinction
in Application
of Terms

A summary of the principles governing the application of this phrase is presented by Judge Ruegg, whose volume on the Compensation Act of 1906 is the standard authority. He concludes:

Principles
Governing
Application of
This Language

1. That the onus of proving both that the accident arose out of, and in the course of the employment, rests upon the applicant.
2. That the accident does not arise out of and in the course of the employment, if it is caused by the workman doing something entirely for his own purposes; or
3. The same result follows when the workman does something which is no part of his duty towards his em-

(a) *Craske vs. Wegan*, 100 L. T. 8 (1909).

(b) *Rowland vs. Wright*, 24 T. L. R. 852 (1908).

ployer, and which he has no reasonable grounds for thinking it was his duty to do.

4. The accident may arise out of and in the course of the employment, if the act which occasioned it, although not strictly in the scope of the workman's employment, is done upon an emergency.

5. It may be said to arise out of the employment if, it being the workman's duty to do the act, the accident arises from his doing it in an improper manner.

Instances
Where
Liability May
or May Not
Exist

6. It may arise out of and in the course of the employment, if occurring on the employer's premises, when the workman has not actually commenced his work, or after he has finished.

7. It may arise out of and in the course of the employment, if, the workman's duties not being clearly defined, he may reasonably have thought it a duty to do the thing in the course of which the accident occurred.

8. It does not arise out of and in the course of the employment, if occasioned by the willfully tortious act of a fellow-servant, when the risk of such an act cannot be said to be one of the risks incidental to the service.

9. It may arise out of and in the course of the employment if, though occasioned tortiously, even willfully, by the act of a third party, the risk of injury from such acts is found to be one of the risks incidental to the employment.^(a)

^(a) Ruegg Employers' Liability (8th ed.), p. 373.

Probably the most extensive and indeed startling degrees of liability arise from the construction of the term "personal injury by accident." This language is identical with that contained in the preceding Act of 1897, which had resulted in many conflicting decisions. This was doubtless due in part to the fact that the Courts of Appeal usually supported the finding of an arbitrator as to whether a particular occurrence was or was not an accident, this on the ground that it was a question of *fact* and not of *law*. This difficulty was removed at a later date by a decision of the House of Lords that the meaning of "accident," when applied to ascertained facts, was a question of law.^(a)

"Personal
Injury by
Accident"

The earlier decisions seem likewise inclined to hold that it must be shown that the injury for which compensation was asked found its proximate and immediate cause in the accidental occurrence. Thus a number of instances were presented in which strain and over-exertion accelerated pre-existing diseases or was merely the occasion of disability. Thus we find in these earlier cases such occurrences as these:

A boy at work in a mine is frightened by the colliery cat. He develops St. Vitus' Dance, and it is held to be an accident. A mouse runs up a miner's leg, bites him, and blood poisoning ensues, held not to be an accident. A workman, in the ordinary course of his duties, lifts a heavy beam, as he has been accustomed to doing, and in balancing it strains the muscles of his back, causing dis-

(a) Fenton vs. Thorley & Co. Ltd., 19, T. L. R. 684.

Early Difficul-
ties of Inter-
pretation

ability, held to be an accident.^(a) A workman undertakes to start a gas engine in the course of his employment, finds the wheel somewhat hard to turn owing to disuse, and in the midst of his exertions vomits blood and afterwards dies. Medical evidence was offered to show that death was due to the diseased condition of the man's body and not to the strain, and while the court held the death to be due to disease, it considered it to be accelerated by the strain, but refused to hold the occurrence an "accident."^(b) Shortly afterwards, the same Court of Appeal found that a workman who ruptured himself while lifting some planks in the usual course of his employment, suffered an injury "by accident" in the meaning of the Act.^(c)

Authoritative
Interpretation
of "Accident"

A similar case was at length presented to the House of Lords for final decision.^(d) A workman, in turning the wheel of a machine during the course of his employment, over-exerted and ruptured himself. The House of Lords held that the word "accident" was to be given an "ordinary and colloquial" meaning and defined it as an "unlooked for mishap or an untoward event which is not expected or designed." "It means," said one of the Law Lords, "any unintended or unexpected occurrence which produces hurt or loss." "This case," says Judge Reugg, "is authority for the proposition that an accident need not be a fortuitous occurrence in the sense that if the true facts had been known it was a natural result of the thing done or attempted."^(a)

(a) Boardman vs. Scott & Whitworth, 1. K. B. 43.

(b) Hensey vs. White, 1. Q. B. 481.

(c) Timmins vs. Leeds Forge Co., 16 T. L. R. 521.

(d) Fenton vs. Thorley & Co. Ltd., 19 T. L. R. 684.

In 1905, a workman employed in sorting wool was infected with anthrax from contact with the sheep hides. He died and compensation was refused in the lower courts on the ground that his death was due to disease. On appeal to the House of Lords, this infection was held to be "personal injury by accident."^(b) There was a strong dissent by a minority of the Law Lords, who declared that the decision involved holding that all diseases caught by workmen in the course of their employment were to be regarded as "accidents." Doubtless, as a result of this decision, occupational diseases were included in the Act of 1906 by specific description, but the case remains an authority for the inclusion of infectious and possibly contagious diseases within the term "accident."

Inclusion of
Infectious
Disease as
"Accident"

But "accident" was logically marching to a still more far-reaching application. In March, 1910, the following striking case was presented to the House of Lords: A workman, in the ordinary course of his employment, was engaged in tightening a nut with a wrench. His task admittedly required only ordinary exertion, but in this instance that amount of exertion contributed to a rupture of the aorta, resulting in the man's death. The admitted facts presented in the higher court showed the man to be suffering from a heart affection which had reached such an advanced stage that any slight exertion was likely to produce a rupture, or it might have occurred during the man's sleep. The county judge refused compensation

Injury
Accelerating
Diseased
Condition Held
to be "Personal
Injury by
Accident"

(a) Ruegg Employers' Liability, 8th ed., p. 318.

(b) Brintons Ltd. vs. Turvey, T. L. R. 444 (1905).

on the ground that death was due to disease and not accident. The Court of Appeals sustained the finding. The House of Lords, despite a strong dissenting opinion, held that the workman had died from personal injury by accident, within the meaning of the Act.^(a) The prevailing opinion lays down a principle pregnant with extreme liability "that an accident arises out of the employment when the required exertion producing the accident is too great for the man undertaking the work, whatever the degree of exertion or the condition of health."

Dissenting
Opinions of
Law Lords

The consequences of this opinion become more apparent from reading a brief extract in the dissenting opinions of Lords Atkinson and Shaw:

"The death of the deceased," says the former, "so it appears to me, was no more an accident than if, had he been a butler, he died walking slowly up the stairs in the house in which he served, or, had he been a coachman, he died while slowly mounting to his box. It may be possible that it would be better in the interest of the workmen that they should be entitled to compensation for all injuries which arise out of and in the course of their employment however caused, though it is far from clear, since it might result in depriving of employment all who in any way are unsound or past their prime; but while the word 'accident' remains in the statute, force and meaning must be given to it in construing the statute, and, much as one may sympathize with the claimant, I, for my part, was unable to see that

(a) Hughes vs. Clover, Clayton & Co., 25 T. L. R. 760 (1909).

anything which was not normal and most probable, if not certain, befell the deceased."

Lord Shaw concludes thus:

"On these facts I am of the opinion that this workman did die of heart disease. There was nothing unusual or abnormal in the work, no strain more than the ordinary was imposed or involved; no occurrence took place to intercept or even disturb the work or the workman; all that can be said is that being at work and diseased, he died. His death was caused, in my view, not by any injury by accident but simply by the disease under which he unhappily suffered."

Up to this point personal injury by accident had at least required the causing or occasioning of some direct objective injury to the body. Within the past few months, the Court of Appeals has held that personal injury by accident may result from mental shock or fright received in the course of employment. A miner, while at work, heard an outcry from an adjacent chamber. Hurrying to the point, he found a workman partially covered by a fall of rock, unconscious, severely injured, and his head covered with blood. The rescuer hurried the wounded man to the surface, where he died. Subsequently, the rescuer alleges that he was so affected by the appearance and peril of his fellow employe that he was incapacitated from further employment, and this occurrence the Court of Appeals held to be personal injury by accident.^(a)

Mental Shock
or Fright
Held to be
"Accident"

(a) Yates vs. South Kirby, Folkestone & Hanswick Collieries Ltd., 79 L. J. K. B. 1035 (July 1910).

From these decisions it becomes apparent :

1. That the employer must pay compensation not only for disability or death, of which injury received in the course of employment may be the direct and proximate cause, but for disability or death to which such injury may have been only a contributing factor or a remote or indirect cause or condition.

2. That whatever be the physical condition of the workman, the employer is liable for any disabling effect produced upon him by the normal conditions of his employment and for death resulting from pre-existing disease, if even a normal circumstance of employment accelerates its fatal termination.

3. The employer is liable for infection received from materials handled in the course of employment, exclusive of the special provisions for occupational diseases.

4. The employer is liable for the consequences of nervous or mental shock to a workman when arising from the circumstances of his employment.

Subject to the provisions with respect to industrial diseases, the employer is not liable for disease gradually contracted in the course of employment,^(a) but we cannot more than conjecture whether he would be liable for contagious disease contracted from a fellow worker, or sudden sickness arising from exposure to the elements under the normal conditions of his employment, even though such exposure would not be likely to harmfully affect a normally healthy person. The liability created by the phrase "personal injury by accident," while vastly greater than

(a) *Steel vs. Cammell, Laird & Co.*, 2 K. B. 232.

Broderick vs. London Co. Council (1908), 2 K. B. 807.

that under similar language at the common law or by statute, or in popular acceptance of the term, is as yet incapable of definite limitation. Practically it covers much disability of which disease and not accident is the actual cause. It comprehends many contingencies, such as death from a lightning stroke suffered by a bricklayer, (a) that could not have been in the mind of the most extreme advocate of compensatory relief, and is still capable of indefinite extension.

"Serious and willful misconduct" on the part of the injured person bars recovery of compensation only when the injury "does not result in serious and permanent disability or death." The workman's right of recovery is therefore in inverse proportion to his care for himself and others. Suicide would doubtless bar recovery, as it would neither be an "accident," nor could it probably be said to "arise out of and in the course of employment," but short of self-destruction, no act of the workman prevents compensation if resulting injury causes death or permanent disability. This limitation upon liability may therefore be urged as a defense only to claims based upon *temporary* disability. Even in these cases it has been pointed out that the misconduct, to bar compensation, has been defined in conjunctive and not alternative form. It must be *both* serious *and* willful.

In the judgment of the House of Lords whether or not misconduct is "serious" is to be determined from its nature and not from its consequences.^(b) Thus if a person be

"Serious and
Willful
Misconduct"

(a) *Andrew vs. Failworth Industrial Soc.*, 2 K. B. 32.

(b) *Johnson vs. Marshall, Sons & Co. Ltd.*, 22 T. L. R. 565.

seriously injured through disobedience of a trivial rule, the misconduct will not be deemed "serious" although its consequences to the injured person are serious. Thus the courts have refused to hold that it was "serious misconduct" to use appliances or property forbidden by the employer or even that every breach of a statutory duty was "serious misconduct."^(a) The courts have, however, shown a strong inclination in considering a charge of serious misconduct to regard the effect of the injured person's action in exposing others to peril. But under the limited power which the court possesses to penalize misconduct, however it may expose others to death or injury, it can but slightly discourage reckless action.^(b)

Recklessness
No Bar to
Compensation

The most serious instances of the effect of this provision never reach a public record, for the more serious the consequences of misconduct to the injured individual, the more certain becomes his compensation. If a boiler was exploded through the criminal carelessness of an intoxicated engineer or fireman, it might demolish the plant, bring ruin as well as death to the employer, fatal or serious injury to many employes, but the cause of the catastrophe, if disabled for life or killed, would find himself or his dependents a preferred creditor against the employer's estate, and his claim would be on the same footing with that of his fellow workmen to whom he had brought death or injury. No sound system of law can afford to tolerate, much less encourage, personal recklessness, nor can it be either just or even decent to make an individual liable for the consequences of that misconduct in another which

(a) *Johnson vs. Marshall, Sons & Co. Ltd.*, 22 T. L. R. 565 (1906).
Also, *George vs. Glasgow Coal Co.*, 25 T. L. R. 57 (1909).

(b) *Bist vs. London & S. W. R. R. Co.*, A. C. 209.
Brooker vs. Warren, 23 T. L. R. 201.

no human effort can avoid. It is not only a principle abhorrent to justice and morality, but from the mere standpoint of expediency, it defeats one of the primary purposes of all compensatory legislation—the lessening of the number and degree of accidents. It illustrates as powerfully as any single circumstance can how insistently the English legislation strives to make some one personally liable for every injury received at work, and how little effort is made to avert the consequences it would alleviate.

The Act of 1906 includes certain industrial diseases Compensation for Industrial Disease arising out of employment and provides, where they occur, that they are to be legally considered in accordance with their effect, as personal injury, or death, caused by accident. Six diseases were specified in the Act, and the Secretary of State was given wide power to make orders, adding other diseases to those enumerated. Under this power he has added eighteen to the first six, making twenty-four occupational diseases for which compensation may be had.^(a)

To claim compensation under these provisions, the disease must:

1. Be one named in the Act or subsequent orders of the Secretary of State.
2. The workman must have been suspended from his work on account of having contracted such disease, under special regulations which have been provided; or
3. It must be certified by a physician appointed for the district in which he is employed that he suffers from one of the enumerated occupational diseases, which disables him from earning full wages; or

^(a) Statutory Rules & Orders 1907. No. 407.

4. In case of death, it must be shown that it was caused by such disease.^(a)

Proceedings
for Compensation Subject
to no
Limitation
of Time

It should also be noticed as a contributing element to the uncertainty of liability that while there is a limit of time, subject to extension within the discretion of the arbitrator, within which notice of accident must be given and claim for compensation made, there is no limit of time within which proceedings to establish a claim for compensation must be brought. The workman having asserted his claim may attempt to enforce it whenever he pleases.

Admirable
Administration
of Act by
British Judges

The administration of the Act presents some admirable features. Employer and employee are left in the first instance to apply its terms to themselves. Until they have failed to do so, there is no dispute of which a court can take notice. Even then it cannot do so as a court, but only as a tribunal of arbitration. The parties are free to select their own arbitrator, but as a matter of practice, substantially all arbitrations are had in the county courts, and the promptness and dispatch with which claims are adjusted present an enviable example of the very high character of British judicial efficiency.

Protection of
"Lump Sum"
Payments

Under a practice which has become an established custom in the supervision of lump sum payments, county court judges have become the trustees of large sums paid into their courts for the benefit of dependents. To protect the interest of minor children and prevent the dissipation by parents or guardians of money awarded partly for their benefit, county court judges exercise a wide discretion in supervising the expenditure of lump sum payments. While the control of these funds by the courts is

(a) Ruegg Employers' Liability, 8th ed., p. 330.

a protection against their dissipation, it nevertheless illustrates the undesirability of permitting lump sum payments instead of fixed instalments, variable only under unusual circumstances, for the ascertainment of which due provision is readily made.

The execution of the Act is supposed to be aided by a number of supplementary rules and forms, much more complex than seem desirable. Mr. Thomas Beven, whose work on "Negligence" has been a standard authority at the English bar for many years, criticizes this feature of the legislation in the following language:

"The Workmen's Compensation Act was at first intended to be so simple that a workman, without aid or counsel or solicitor, should be able to get the advantage it gives him from his employer. To work out this object, a power to make rules is given to a body of county court judges. Their first effort in simplifying produces 85 rules, some of which meander through pages of print, and are made, if it were possible, more intolerable by 67 forms attached to them by way of appendix. Then, within a twelve-month, pages more of rules and forms are produced. The Treasury joins in showering its benefit of rules on the workman, and so does the Home Secretary, and so do Treasury and Home Secretary jointly, and so does the Registrar of Friendly Societies." (a)

Supplementary
Rules
Criticized

The administrative features of the Act, particularly its provisions for arbitration, are full of instructive sug-

(a) Beven on Workmen's Compensation, 4th ed., Preface XIII.

gestion, but the liabilities which it creates go far beyond the legal disabilities which it sought to remove. Technically, its language suffers from the uncured defects apparent in the Act of 1897, for, in the words of the Law Lords, the Act "does not seem to have had the benefit of careful revision."^(a) But what is far more serious than verbal deficiencies, it betrays, as we have seen, elements of grave injustice. It fails to provide a single liability, holding in the background the speculative threat of proceedings at the common law or by statute. It covers invalidity whilst aimed at accident. The obligations it creates are vast but indefinite, certain only in the gravity of their burden and the surety of their capacity for indeterminate extension. It is axiomatic that want of certainty as to the nature and extent of the liability it creates is the most serious and costly defect of any legislation. It weighs more heavily than high but definite obligation, for the greater the uncertainty of statutory duty, the more rapidly do insurance premiums rise to cover the contingencies of its future interpretation and expansion.

(a) *Fenton vs. Thorley & Co. Ltd.*, A. C. 448.

CHAPTER ELEVEN

**British Compensation Statistics. The Neglect to Record
the Operation of the Earlier Acts Incompletely
Remedied by Partial Information Required
Concerning the Act of 1906**

CHAPTER XI

BRITISH COMPENSATION STATISTICS. THE NEGLECT TO RECORD THE OPERATION OF THE EARLIER ACTS INCOMPLETELY REMEDIED BY PARTIAL INFORMATION REQUIRED CONCERNING THE ACT OF 1906

We turn from consideration of the chief provisions of the Compensation Act eager to learn the effect of their application. We have observed that in Germany and generally throughout Europe, each step in the course of legislation proceeds from carefully compiled information which is being continually renewed. The Briton began by avowedly experimenting with unfamiliar principles. Let us notice the provision made for observing the manner in which the experiment worked, the quality of the data gathered, the extent of the field which it covered and the light which it throws upon the operation of these principles.

In 1908 the British Home Office thus comments upon the existing record of ten years of compensation experience:

"Home Office"
Commentary
on Statistics
Act of 1897

"The ten volumes of statistics issued under the earlier acts of 1897 and 1900 had reference to only the seven groups of industries to which these acts applied, and to causes of injury or accident occur-

ring in these industries; and the information given was, in the absence of any way of requiring returns from employers, limited to such information as to the administration of the Act as could be obtained from the county courts."^(a)

Lack of
Statistical
Data
Respecting
Operation of
Act of 1897

This statistical fragment was then the only record of the operation of the Act of 1897 in the possession of the Government, beyond the report of the Departmental Committee of 1904, yet there is little evidence that the conclusions and recommendations of the committee exercised much influence on the provisions of the Act of 1906. Against its recommendations the waiting period, during which compensation was not paid, was reduced from two weeks to one, with corresponding increase of liability, and the maimed and elderly were left to struggle for employment under distressing conditions, which the committee pointed out and without the mitigating remedies it advised. Against the strongly expressed opinions of the committee, new liabilities of an indefinite nature were added to anomalies and vague obligations which were criticized. Even the complete failure to make any provision for compiling information of the operation of the Act remained uncorrected until 1907, when the defect was for the first time partially but incompletely remedied. As the Home Office report of 1908 admits, prior to that year there was no record of even the cases in which compensation was paid, beyond that small number, estimated between some six and seven per cent of the whole, which became, during the course of a year, the subject matter of litigation. Of the 93 or 94 per cent in which an award

^(a) Statistics of Compensation, etc., during 1900 (Home Office) cd. 4804.

was agreed upon by the parties concerned, there is no report. The number and character of such cases is only to be conjectured from individual estimates based upon the incomplete records of the insurance companies; their number can merely be guessed at, their story is lost. From 1897 to 1908 all that one would seek to know concerning the consequences of a great piece of social legislation must be gathered from indiscriminate private sources. No public record exists from which can be gleaned the pecuniary burden placed upon general or specific employments, the proportionate cost of insurance to compensation paid, the ratio of injury in the industries affected, or any of those essential circumstances which could give knowledge of how the experiment worked. The possession of such data, their compilation, analysis and study would alone seem to have provided a guide to the further extension of tentative legislation. But no such statistics were had during ten years; although the defect was pointed out no attempt was made to remedy the condition. The Act of 1906 can therefore be said to have extended its principles to practically all employments, without detailed knowledge of the effects which had been produced within the prior area of their activity.

The new measure, however, offered evidence of a public recognition of the statistical deficiencies we have noticed. It contained a provision requiring employers "to make returns as to the number of injuries in respect to which compensation was paid, the amount of compensation and such other particulars as the Secretary of State may by order direct."^(a) Thus an opportunity was afforded for the accumulation of complete detailed information. But the

Provision for
Compiling
Information
Respecting
Act of 1906

^(a) Sec. 12.

Secretary of State, despite the fact that the new legislation covered practically every employment in Great Britain, confined, and continues to confine, requirement and request for information to seven groups of industries, namely: Mines, quarries, factories, harbors, docks, constructional work and shipping, excluding from the last sailing vessels in the sea-fishing service, and from "constructional work," the whole field of activities included in the erection, repair and demolition of buildings. This deliberate rejection of information is explained by the statement that the industries enumerated by their concentrated character, "afforded the possibility of obtaining returns sufficiently complete and accurate to be of value."^(a)

Information
Required Only
from Limited
Number of
Industries

The acts of 1897 and 1900 applied only to railways, factories, mines, quarries, engineering work, building and agriculture. A comparison of the industries included in the order of the Secretary of State with those to which the former legislation applied, makes it apparent that in five groups of employment an attempt is being made to gather information equally obtainable, and if anything more valuable than during the ten years which had passed. The returns required do not cover all the industries affected by the old legislation much less the new. Nothing is asked from the building industries, or agriculture, inland transportation, including street railways, omnibus, cab or motor service, all forms of domestic and clerical service, and a variety of smaller employments to which the law was extended.

Insurance companies estimate from the British census of 1901 and later calculations, that not less than 13,000,000 persons are included within the provisions of the

^(a) Statistics of Compensation during 1908. Introduction p. 3.

Act of 1906. The Departmental Committee, in the course of its report, estimated the number of persons within the terms of the Acts of 1897 and 1900 at 7,250,000. It is therefore obvious that if complete returns were received from the industries selected, but little more than 60 per cent of the operation of the Act is presented.

Estimate of
Number of
Persons
Covered by
Act of 1906

Let us now examine the nature and extent of the information received by the British Home Office and issued for the years 1908 and 1909 as "Statistics of Compensation and Proceedings under the Workman's Compensation Act of 1906."^(a)

The Compensation Act of 1906 did not become effective until July 1907. We are therefore to receive the disclosures of the first two years of its operation. The report of the second year is expected to cover deficiencies and difficulties officially recognized to attach to the returns of the first year. It may therefore be assumed to represent the most complete information we can expect.

Table 1 summarizes the comparative statistics of compensation supplied by the Home Office for the years 1908 and 1909. We must form some estimate as to their character and completeness before we proceed to use their contents as the basis of subsequent conclusions.

Summary of
Operation of
Act of 1906
During Years
1908 and 1909

The report informs us that the Secretary of State, under the powers conferred upon him by the Act of 1906, has required limited statistics of compensation from the seven groups of industries heretofore enumerated, together with general statistics, "similar to those given in previous years in regard to the administration ^(b) of the Act. The statistics of administration are therefore confined to the number and character of litigated cases

(a) Cd. 4894. Cd. 5386.

(b) Statistics Compensation during 1908. Introduction p. 3.

TABLE 1

[illegible]

Gross returns including some not covered in detail.

+ 6,908

under the Act, the common law and the employers' liability statutes.

The particulars required from the seven groups of industries are:

Information
Required
from
Employers
under Act 1906

A. The number of fatal accidents in which compensation was paid during the year, and the amount, distinguishing cases where persons wholly dependent, cases where persons partly dependent and cases where no dependents were left.

B. The number of disablement cases in which compensation was paid, distinguishing cases continued from previous years and cases in which the payment was made during the year.

C. The duration of the compensation in disablement cases.

D. The settlements of disablement cases by lump sum payments.^(a)

Separate information was also asked concerning the number and nature of cases of industrial disease, and the amount of compensation paid therein.

The nature of these interrogatories precludes data respecting the comparative quantity, character and cost of insurance carried, the medical and legal expense connected with the adjustment of claims, the causes of accident and its comparative distribution, or other facts enabling a substantial calculation of the pecuniary burden of the Act to be made.

Information
not Required

Unsatisfactory as is the nature of the information elicited, it is, by the intrinsic evidence of the report itself, incomplete within its own limitations. The report for 1908, alluding to the collective returns of compensation

^(a) Statistics Compensation during 1908, p. 4.

declares: "Of the whole of the industries covered by the order, they account for 69 per cent of the fatal cases, and 71.10 per cent of the compensation; 73 per cent of the disablement cases and 74.10 per cent of the compensation." (a)

Respecting the same condition the report for 1909 does not show a marked improvement. It accounts, within the same groups of employments, for: "73 per cent of the fatal cases and 73.5 per cent of the compensation; 73.7 per cent of the disablement cases and 75.8 per cent of the compensation." (b)

Evident
incompleteness
of British
statistics of
compensation

Having deliberately narrowed their investigation to 60 per cent of the employments affected by the Act, the returns of the Home Office are, within this circumscribed field, from 25.90 per cent to 31 per cent incomplete for the year 1908 and from 24.02 per cent to 27 per cent incomplete for the year 1909. It is not, therefore, unfair to say that the statistics of the British Home Office account for less than 50 per cent of the complete operation of the Act. It is undoubtedly true that within one or more of the seven general groups of industries covered, the returns in single sub-divisions are probably 90 per cent complete, but the substantial completeness of the information respecting a fractional division of a single industry does not, and cannot cure inadequate general statements, and, in many cases, the complete absence of information respecting a whole employment.

Upon these insufficient returns the cost of compensation to the seven groups of industries, individually and collectively, is calculated and asserted upon a principle of estimate as erroneous as its basic data are incomplete.

(a) Statistics Compensation during 1908, p. 4.

(b) Statistics Compensation during 1909, p. 4.

The statistician of the Home Office divides the total amount of compensation reported to have been paid in any single industry, or in all, by the total number of persons reported to have been employed therein, and concludes that he has arrived at the cost of the legislation for each person employed under it.^(a) There is indication, however, that in some instances the number of persons employed is figured from sources other than the returns, which would add further errors of fact to those of process. But quite apart from such irregularities it must be evident that the pecuniary burden of the law to any particular industry, or to all employments, is to be estimated not by the total sum paid in compensation claims, nor by the amount which that represents for each individual employed, but by the total amount of premiums paid for the insurance of all workmen in a given service, or the risk carried by the individual who does not insure his liability expressed in the insurance term for that risk.

Erroneous
Computation
of Cost of
Compensation

The truth of this becomes clearer if we recall that it is a frequent complaint against our own system, that under it only 40 per cent or 50 per cent of the premiums paid by the employer to insure his liability reaches the injured workman. It must therefore be obvious that any calculation of the cost of employers' liability insurance in the United States, based upon the amounts paid to the injured person, would fall short of the fact by the difference between the premiums paid to the underwriter and the amount which he expended in the settlement of claims. It would be equally fallacious to figure the cost of insurance per employe by dividing the amount paid in claims by the number of persons employed in the industry in

Fallacy
of Method
Illustrated
from American
Experience

(a) Statistics Compensation during 1909, p. 4.

which the claim was paid. It must be therefore evident that the conclusions reached in the British reports, respecting the pecuniary burden of the Act, are based upon an utterly erroneous principle of calculation.

Burden of
the Act
Displayed
in British
Statistics

Taken upon their face value, the returns compiled in Table 1 suggest somewhat startling conclusions as to the probable extent and nature of the real pecuniary burden created by the Act. The figures for 1908 are based upon returns covering 7,500,000 employes, showing compensation to have been paid in a total of 328,957 cases, or, on the face of the returns, one case of compensation for substantially every twenty-two employes. For 1909 the same groups of industries show compensation to have been paid in 335,953 instances with *but* 6,500,000 employes, or one payment for every 19 employes reported. With 1,000,000 less employes, the second year of the operation of the Act shows 6,996 additional cases of compensation.

Discrepancies
in Factory
Accidents

We are further informed that in the factory industries in 1909 there were 744 instances in which compensation was paid in fatal cases and 123,134 disablement cases. For the same year but 700 fatal cases were reported under the Factory Act. In the Compensation Report itself it declared, with respect to the factories: "On a rough estimate the number of reported accidents which disabled for more than seven days would seem not to have exceeded 100,000."^(a)

Yet compensation was paid in 23,134 instances in excess of the estimate! These discrepancies are explained in the report by the statement that the compensation returns covered a "somewhat wider field than the returns

^(a) Statistics Compensation during 1909, p. 7.

under the Factory Act, the latter relating only to employment in the factory, while for the purpose of compensation returns all persons engaged by the employer in connection with the industry carried on in the factory, 'outside' as well as inside hands would be included."^(a)

This plausible explanation must face its own figures respecting "outside employes," who are enumerated at 283,638.^(b) Therefore, to accept the explanation offered for the discrepancy between the excess of compensation awarded over accidents reported or estimated, we must assume at least one in *eleven* of the "outside" employes not only to have been injured, but disabled for at least seven days! While of no great importance in itself, the incident illustrates the dissatisfaction attendant upon a perusal of the report.

Not only with respect to accidents, but also to industrial disease there exists the same evidence of an increasing number of compensation cases accompanying a decreasing number of employes. The report for 1908 gives 2,286 cases of occupational disease for which compensation was paid;^(c) 1909 shows 3,346 cases, an increase of 1,060 cases in which compensation was paid.^(d)

Marked
Increase in
Occupational
Disease

Accepted upon their face value, the returns would indicate that injury and compensation were practically equivalent terms. If compensation payments thus increase as employment decreases one must become lost in a maze of speculation as to the proportion which will be shown with increasing employment.

The record of judicial arbitration under the Act, Table 2, presents most interesting features. Of 328,957 cases in which compensation was paid in 1908, but 5,358

(a) Statistics Compensation during 1909, p. 7.
(b) Statistics Compensation during 1909, p. 8.
(c) Statistics Compensation during 1908, p. 12.
(d) Statistics Compensation during 1909, p. 1.

TABLE 2

OPERATION OF THE ACT OF 1906.

STATISTICS OF COMPENSATION BRITISH HOME OFFICE
REPORTS.COMPENSATION CASES ARBITRATED IN COUNTY COURTS,
1908-9.

Employments	1909	1908
Professional Employments	29	19
Commercial Occupations	12	19
Shop Assistants	118	121
Domestic Servants	432	368
Seamen	359	326
Fishermen	19	17
Agriculture	265	284
Building	637	543
Factories and Workshops	1,820	1,440
Docks, Wharves and Quays	315	275
Mines	1,255	1,057
Quarries	87	66
Constructional Work (excluding Building)	177	129
Railways	176	250
Inland Transport by Road.....	379	362
Inland Transport by Water.....	48	29
Miscellaneous	60	53
Total	6,188	5,358

were taken into court, and of these 1,563 were withdrawn or settled. Of 335,953 cases in which compensation was paid in 1909, but 6,188 were taken into court, and of these 1,789 were withdrawn or settled out of court. For 1909 "it appears that the number of claims to compensation which have been settled judicially is less than one to five in fatal cases, and less than one to two hundred in cases of disablement."^(a)

Litigation
under Act of
1906

It is apparent that during both 1908 and 1909 more than one-third of all the cases taken into court came from employments which are not covered by the returns of the Home Office, a circumstance affording further evidence of the great number of cases and circumstances of compensation which are officially overlooked.

It is very interesting to observe that the proportion of cases in which the applicant for compensation was successful in proceedings in court was 79 per cent in 1909, 82 per cent in 1908 and 84 per cent in 1907. From various other features of the Act which we have heretofore considered, it becomes impossible to conclude whether the tremendous percentage of compensation claims adjusted out of court are due in any great measure to its essential equity, or to the prudence of the employer who refuses, by contest, to add the further costs of a hopeless defense to the substantial certainty of an award. That workmen are content to accept the certainties of the Compensation Act as against the speculative possibilities of recovery under the Employers' Liability Act, seems evident from the fact that in 1909 there were but 204 actions brought under that statute as against 260 for 1908, 343 for 1907, and 476 for 1906.^(b)

Proportion of
Successful
Compensation
Claims—
Decrease in
Legal Actions

(a) Statistics Compensation during 1909, p. 3.

(b) Statistics Compensation during 1909, p. 16.

Conclusions
Respecting
British
Compensation
Statistics

The continuous neglect, almost refusal, to collect accessible and essential information respecting the Compensation Acts is an English political conundrum. Even the smaller Continental States studied their limited application of these principles with painstaking earnestness and care. But here is the puzzling spectacle of a nation in the "foremost files of time," proverbially suspicious of legal innovation, introducing into her ancient system principles alien to her traditions and professedly giving them trial, yet making no serious provision to observe the result of her bold experiment. Under these circumstances the continued practice of these ideas during a long period of years is surprising, but their extension practically to the limits of Parliamentary power with no scientific knowledge upon which to base the legislative action is amazing. Accurate knowledge is the basis of all rational action. To act without it is to grope in the dark. These defects of method are widely recognized in England, but, strange to say, they continue, as we have observed, inadequately remedied. The nature and extent of the latest official inquiry into the operation of the Act of 1906, is, we have seen, incomplete and inconclusive and can supply merely that half knowledge which is neither satisfactory nor scientific.

CHAPTER TWELVE

Insurance Under the Compensation Act

CHAPTER XII

INSURANCE UNDER THE COMPENSATION ACT

The natural result of compensation legislation was a very greatly increased demand for liability insurance. The law did not require it, but the promptings of self-interest, especially in view of the many alarming opinions which were entertained as to the nature and extent of the new liability, led the employer to seek its protection. The complete absence of statistical data prevents us from ascertaining either the amount of compensation paid or the proportion of insurance carried thereto during any or all of the years since 1897. The returns required by the Board of Trade during the past two years inform us as to the amount of employers' liability insurance business which is being done by English companies, but it does not enlighten us as to the amount of compensation paid. The Home Office reports, to which we have referred at length in a preceding chapter, estimated that at least £3,000,000 (\$15,000,000) was paid in compensation during the year 1909.^(a) Many insurance officials insist that the true amount is from one-third to one-half greater than this.

Increased
Demand for
Liability
Insurance
Under Com-
pensation
Legislation

^(a) Statistics Compensation during 1909, p. 3.

But even if the amount paid for new or continuing claims had been ascertained they would not suffice to show the pecuniary burden of the Act. They would cover the claims paid, but would leave us still ignorant of the cost incident to their payment. A variety of charges attach to the adjustment of claims by the individual employer who carries his own risk, and if he insures it the cost of compensation legislation to him is expressed by his premium rate and not by the lesser or greater sums which his underwriter may pay in settlement of claims against him.

Incompleteness
of Official
Records
Compels Resort
to Insurance
Companies

The incompleteness of official data forces us back upon the insurance companies if we are to form any satisfactory estimate of the pecuniary burden of the British legislation. If public records will not tell us its cost to the British employer, the insurance companies will at least inform us what it will charge to assume the liability of the employer. We thus obtain a knowledge of rates, if not of cost, and the expression of an expert judgment as to the character and extent of the employers' legal risk.

The experience of those who undertake, as a part of their business, to underwrite the legal burden of the British employer, is perhaps the most conclusive evidence of the high and uncertain liabilities which Parliament has created. Facing the task of estimating the pecuniary obligations created by the Act of 1897, the English accident companies undertook to formulate rates upon their personal experience with the common law and the Employers' Liability Act of 1880, modified by a study of German and Austrian statistics and the information sup-

plied by the relief associations of the great Friendly Societies. A tariff was accordingly drawn and agreed upon by a large number of insurance organizations, but within a year many of the important parties to the agreement withdrew, in the face of the exceedingly sharp competition which broke out as many new companies entered the field attracted by the apparently vast opportunity for business.

Prior to 1909 insurance companies were not required to make any pecuniary guarantee of solvency. Under the statute passed in that year each company was required to deposit £20,000 (\$100,000) with the Paymaster-General as a condition of engaging in business.^(a) Cash assets were not a prerequisite in 1897 and a variety of new companies came into being eager to accept liabilities under the Compensation Act, many possessing insufficient experience. The result was a condition of bitter competition. Rates were slashed during the first year and subject to individual variations in accordance with the speculative boldness of particular companies. Within a year rates rapidly advanced, but the sharp conflict resulted in a number of business fatalities. The larger companies, however, appeared to have acted throughout this period with general conservatism and a great number soon reached an understanding on rates, many of the larger organizations being represented in a standing Rate Committee. Indeed, English insurance companies are popularly known as either tariff or non-tariff companies, the former including most of the

First Stages
of Liability
Insurance
under
Compensation
Act

(a) 9 Edw. 7 chap. 49 Sec. 2.

greater organizations conforming to a minimum tariff which can be lowered in individual instances only with the approval of a standing representative Rate Committee. The non-tariff companies include all those organizations bound by no restrictions in the making of rates, but generally accepting as a guiding standard the tables of the tariff companies. It is frequently stated in England by the representatives of the smaller non-tariff organizations that the large companies, with their greater capital and experience, have enjoyed the advantage of the more select risks and act with much caution in accepting dubious ones, while the smaller and newer companies are compelled by business considerations to take the less desirable risks, oftentimes with serious consequences to themselves. This condition, it is said, will ultimate in the retirement of many of the smaller companies, leaving the field largely to their stronger rivals, who will either reject a great number of risks now being underwritten at speculative rates, or greatly advance the charges.

**Effect of
Judicial
Decisions
on Rates**

As the legislation of 1897 was subject to judicial interpretation, the decisions of the Court of Appeals and the House of Lords brought home a very keen realization of the responsibilities created by the Act, and rates have been continually advanced in accordance with the increase of actual and potential liabilities. The Act of 1906 vastly widened the area for insurance activity. A variety of new employments were brought within its terms. The waiting period, during which no compensation was paid, was reduced from two weeks to one, and this, alone, was estimated to increase the cost of insur-

ance from 30 to 50 per cent, whilst a broad margin was required in new rates to cover the variety of contingent liabilities over and above all the increased obligations evident upon the face of the measure. Table 3 (page 232).

A careful examination of the rate books of the tariff companies show their premium charge under the Compensation Act to run from two-tenths of one per cent to 10 per cent of the wage roll. There are also a number of employments specified as "reserve risks," and either taken at special rates in accordance with the individual circumstances of the employment, or for which insurance is refused.

These contracts of insurance sometimes exclude classes of employes and sometimes individual workmen. Strong evidence of this practice was presented before the Departmental Committee in 1904.^(a) The practice was then explained by the greater risk of injury to which elderly or defective men are subject, which rapidly increases with age. This condition has been aggravated by the increased liabilities of the Act of 1906. Under decision of the House of Lords the employer has been held, in recent years, to be liable for injuries which are the natural consequences of disease rather than accident. Evidence accumulates constantly and everywhere that this has brought about the enforcement of stringent regulations in many industries respecting the employment of the old and maimed. Some large employers are requiring physical examinations of applicants for employment. Nor is this confined to private service. It is remarkable, but true, that large public bodies, such as the London County Council and the Metropolitan Water Board, who insure

Insurance
Rates under
Compensation
Act

Municipal
Insurance
Against
Liability
to Public
Servants

(a) Report Departmental Committee (1904), Vol. I, pp. 39-40.

TABLE 3
INSURANCE RATES UNDER WORKMEN'S COMPENSATION ACT
1897 AND 1906

The amounts expressed in shillings are the rates per £100.

	1897	1906
Aerated Water Manufacturers	7/6	20/-
Bakers	5/-	4/- to 20/-
Blacksmiths	7/6	30/-
Boat Builders	12/6	15/- to 40/-
Boot and Shoe Manufacturers.....	4/-	4/-
Bookbinders	4/-	6/6
Brickmakers	7/6	10/- to 40/-
Bottlers	7/6	10/- to 20/-
Brewers	7/6	20/- to 25/-
Bullders	<div style="display: inline-block; vertical-align: middle;"> <div style="font-size: 3em; vertical-align: middle; margin-right: 5px;">{</div> <div style="display: inline-block; vertical-align: middle;"> 5/- 7/6 10/- to 20/- </div> </div>	15/- to 40/-
Chemical Workers	10/-	25/-
Cloth Mills	4/6	5/-
Confectioners	5/-	4/- to 20/-
Coal Merchants	5/- to 15/-	20/- to 30/-
Coopers	12/6	10/- to 40/-
Engineers	10/- to 30/-	10/- to 20/-
Farmers	6/-	8/- to 20/-
Glass and Bottle Manufacturers	5/-	10/- to 15/-
Iron Founders	5/- to 10/-	12/- to 50/-
Joiners	5/- to 10/-	15/-
Laundries	10/-	6/- to 12/6

TABLE 3 (Continued)

	1897	1906
Machinists	7/6	12/- to 40/-
Metal Goods Manufacturers (light)	5/-	6/- to 7/6
Paint Manufacturers	7/6	15/-
Paper Mills	12/-	15/-
Plasterers	7/-	10/- to 20/-
Plumbers	5/-	12/6 to 50/-
Potteries	5/-	5/6 to 50/-
Printers	4/-	6/6
Quarries	20/-	25/- to 60/-
Saw Mills	20/-	25/- to 40/-
Shipbuilders	25/-	25/- to 80/-
Ship Repairers		30/- to 80/-
Soap Manufacturers	4/-	15/-
Stevedores	Special	80/- to 120/
Stone Masons	7/6	15/-
Tanners	4/-	10/-
Tile Makers	7/6	12/6
Tin Plate Works	7/6	15/- to 20/-
Tobacco Manufacturers	4/-	7/6
Weavers	3/-	5/- to 7/6
Wire Drawers	7/6	25/-
Warehousemen	2/-	6/- to 20/-
Window Cleaners	3/6	60/-

These rates are necessarily approximate; while obtained from the most reliable sources and in the majority of cases are minimum rates, they are subject to change.

themselves against their risk under the Compensation Act, present the somewhat surprising spectacle of a municipality taking the utmost precaution to protect itself against an extreme liability imposed by the state.

Continuing
Instability
of Rates

Dr. Collic, the Home Office medical referee, generally recognized as a high authority on medico-legal aspects of the Compensation Act, stated in his address before the International Conference on Social Insurance, at The Hague, in September, 1910,^(a) that he had examined, on behalf of London public bodies, 7,000 candidates for employment in the public service of which he had rejected over 700, or 10 per cent. He urged, from this experience of the largest municipality in the world, that "it would appear that from the employer's point of view, a preliminary examination of employees is a good commercial investment." This is not a pleasant suggestion, but if city governments establish the practice of requiring physical examination of applicants for the public service as a means of protecting the municipality against legal liability, private employers and insurance companies are likely to be greatly influenced by the public example.

But to return from conditions affecting rates to the rates themselves. It is desirable to ascertain whether or not the rates, however high they may seem, have reached the stationary point expressing a permanent, fixed charge. To this there can be but one answer. Rates must continue to advance, not only in accordance with the ever-increasing number of permanent disabilities, but to cover the contingent liabilities that are generally admit-

(a) Bulletin des Assurances Sociales Rapports Préliminaires, p. 153.

ted to remain in no inconsiderable numbers in the terms of the Act, and which in the course of its interpretation must from time to time extend its legal obligations. But even if the divers liabilities and dormant burdens of the legislation had been capable of definite calculation and included in the present rates, they must still advance, for the public returns of the insurance companies, the opinions of their officers and the experience of the past few years demonstrate that the rates now in force do not express the pecuniary liabilities of the Act in terms of insurance profit. The greater part of the risks taken under the Compensation Act are being underwritten at a loss. Insurance companies are business enterprises, not philanthropic institutions, and rates will undoubtedly advance to a point where they become profitable to private enterprises, unless the state, in the meantime, should substitute public insurance.

Mr. Stanley Brown, manager of the Employers' Liability Insurance Company, and Chairman of the Accident Officers' Association, states that in his opinion and the general opinion of the Association, the Act of 1906 "goes beyond the price of our former Compensation Act in a proportion from 150 per cent to 200 per cent."^(a) Table 4 (page 236) shows 14 changes of minimum rates in as many employments between March and October of 1910, carrying increases of from 25 per cent to 150 per cent over the previous charge, and still the managers of many of the great insurance corporations express the opinion that rates are, generally speaking, from 50 per cent to 75 per cent below the amount which, in the present state of the law, expresses its risk.

Increase of
Liability
Act of 1906
over Acts
1897 and 1900

(a) Evidence Stanley Brown, Quebec Accidents Commission, p. 8.

TABLE 4
INCREASES IN WORKMEN'S COMPENSATION TARIFF RATES
FROM MARCH TO OCTOBER, 1910.

Trade	Old Rate	New Rate
Carriers	20/-	32/6
Furniture Dealers (delivery)	20/-	32/6
Furniture Depository	20/-	32/6
Bacon Curers (Slaughter houses).....	20/-	50/-
Builders Class A	15/-	20/-
Builders Class B	20/-	30/-
Builders Class C	30/-	50/-
Woodworking Machinists	40/-	90/-
Joiners (non-woodworking ma- chinists)	15/-	30/-
Ironmongers (Mechanics)	15/-	20/-
Plumbers (Mechanics)	15/-	20/-
Painters and Decorators (excluding roofs over 30 ft. high)	30/-	40/-
Painters and Decorators (excluding all roofs)	20/-	30/-
Plasterers	15/-	20/-
Slaters	35/-	50/-
Tin Plate Workers	15/-	25/-

But it may be said this demonstrates the instability of existing rates, not the fact that they are carried at a loss and must be advanced for that reason. Table 5 (page 238) displays the total employers' liability business done in Great Britain in the year 1908 by 34 tariff and 21 non-tariff companies, carrying the bulk of the nation's risks. It discloses that the largest companies, individually, are operating at a loss, or produce an exceedingly narrow margin of profit. The total revenue of the tariff companies shows a net profit of but 2 per cent, that of the non-tariff companies a net loss of 9.73 per cent. The total operations of the 55 companies included in the returns manifest a loss of .41 per cent.

Bulk of British
Compensation
Insurance
Carried at
Loss

This evidence of the insurance situation in 1908 is confirmed and made much clearer by the returns for 1909. The matter is simplified by taking the statements of the four largest and most widely known of all British companies, organizations which also do business in the United States. Table 6 (page 240) shows:

1. The total business of these companies in the year 1909.
2. Their American business during that year.
3. Their British business exclusively.

By accepting five dollars to the pound, we substantially translate the English money into American dollars and discover a total profit for the four companies for 1909 for all employers' liability business to be \$1,049,890. The American business netted a total of \$1,860,465, whilst the British business, represented almost entirely by risks under the Compensation Act, displayed a net loss of \$807,575. Each company was conducted with

TABLE 3
TOTAL EMPLOYERS' LIABILITY BUSINESS, FIFTY-FIVE BRITISH COMPANIES, 1908

TARIFF COMPANIES	Premiums earned		Claim in respect of year		Commissions		Expense of Management		Profit Margin or Benefit		Unsettled business at end of year
	2	3	4	5	6	7	8	9	10		
1	£	£	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	£
Alliance	69,085	24,564	38.19	7,815	11.36	17,146	21.82	10,680	28.36	40.0	
Atlas	14,344	5,440	38.19	2,000	14.04	3,381	23.08	3,528	24.74	30.0	
British Equitable	527	171	32.45	130	24.67	247	46.87	91	3.00	78.9	
British Law	5,373	2,858	53.19	1,069	10.90	1,440	26.91	...	...	100.0
Caledonian	4,546	2,655	58.40	769	16.70	1,301	29.42	...	...	62.4
Central	14,652	6,517	44.51	2,796	19.11	4,011	27.41	2,308	15.78	40.0	
Century	16,361	9,949	60.81	3,296	14.03	4,083	24.96	33	...	40.0	
Commercial Union	221,697	130,909	59.05	80,835	36.64	43,703	19.76	7,000	3.10	40.0	
Employers' Liability	110,985	82,875	74.67	11,047	9.95	10,090	11.00	1,084	...	40.0	
Guardian	63,718	36,935	57.97	8,540	13.42	17,170	26.95	1,001	1.00	30.0	
Horse, Carr age and General	1,098	507	46.17	247	22.50	303	27.60	41	3.75	33.3	
Law Union	16,898	7,062	41.79	2,340	13.85	2,074	12.27	8,422	49.09	36.7	
Liverpool & London & Globe	33,520	19,878	59.31	9,387	27.15	15,100	45.81	9,165	17.10	40.0	
London Assurance	5,495	1,102	20.05	661	12.03	1,760	32.03	1,072	30.40	40.0	
London, Edinburgh & Glasgow	2,083	634	30.44	308	14.79	388	18.63	753	36.14	33.8	
London and Lancashire (a)	247,621	150,530	60.79	84,156	33.79	64,905	22.31	7,001	3.21	40.0	
London Guarantee	23,911	12,684	53.05	3,344	14.00	7,720	32.32	130	...	62.1	
North British and Mercantile	15,801	4,792	30.35	2,011	12.73	3,062	19.37	8,110	51.27	40.0	
Northern	25,328	14,784	58.17	3,058	14.44	3,512	13.08	3,024	11.31	30.0	
Norwich and London	155,555	120,459	77.44	20,340	13.08	30,090	24.20	21,301	13.79	40.0	
Ocean	829,863	208,805	25.14	39,544	4.76	40,420	4.88	7,459	0.90	30.0	
Phoenix	15,242	8,078	53.00	2,263	14.85	3,433	22.52	1,408	9.00	40.0	
Provident Clerks'	48,392	34,723	71.78	4,024	9.27	7,022	17.34	2,877	6.01	40.0	
Railway Passengers (e)	123,124	91,076	73.97	14,671	11.92	18,530	15.00	1,101	...	40.0	
Rock	12,495	6,643	53.17	1,542	12.34	4,127	33.09	1,242	1.05	41.3	
Royal	117,963	69,660	59.05	16,918	14.36	32,053	37.07	1,348	1.10	37.9	
Royal Exchange (c)	122,370	80,205	65.62	17,460	14.37	20,938	20.21	114	...	42.0	
Scottish Accident	16,928	9,054	53.49	3,087	18.24	4,653	27.40	911	16.51	40.0	
Scottish Metropolitan	5,516	2,333	42.30	825	14.96	1,447	20.33	2,400	7.00	40.0	
Scottish Union and National	84,891	19,587	22.95	4,455	5.24	8,360	9.83	2,400	2.86	30.0	
State	9,241	5,475	59.34	1,646	17.82	2,027	21.93	93	1.01	30.0	
Sun	60,897	34,966	57.46	8,099	13.30	10,227	36.05	1,085	2.60	40.0	
West of Scotland	2,476	591	23.87	848	34.26	590	23.42	957	38.05	40.0	
Yorkshire	67,314	42,606	63.31	9,210	13.65	10,569	24.02	1,005	1.04	40.0	
Totals, Tariff Companies	22,030,280	11,255,084	51.90	2,387,045	13.17	2,405,898	22.03	240,709	2.00	...	
	*\$10,151,150	\$6,383,430		\$1,387,045		\$2,826,600		\$203,905			

TABLE 5 (Continued)

NON-TARIFF COMPANIES	Premiums earned		Claim in respect of year		Commissions		Expenses of Management		Profit Margin or Deficit		Unearned premium reserve at end of year. P.C. of premiums reported
	£	2	Amount	P. C. of pre- miums earned	Amount	P. C. of pre- miums earned	Amount	P. C. of pre- miums earned	Amount	P. C. of pre- miums earned	
1	2	3	4	5	6	7	8	9	10	11	
British General	10,775	7,591	65.81	1,166	10.82	2,332	21.64	186	1.73	33.3	
Car and General	69,620	52,852	75.20	10,558	15.17	17,128	24.60	10,418	-14.97	33.3	
Co-operative (a)	7,448	2,981	40.02	1,157	15.53	1,139	15.21	2,177	29.24	43.6	
Empire Guarantee (to June, '08)	18,595	9,313	50.08	2,609	14.06	2,356	12.59	4,317	23.27	33.3	
Empire Guarantee (to June, '09)	23,564	30,209	128.25	3,264	13.86	8,623	36.61	18,542	-78.72	33.3	
Essex and Suffolk	15,654	7,143	45.69	2,522	16.13	6,074	38.85	105	.67	27.5	
Fine Art and General	57,426	37,685	65.62	8,107	14.12	9,187	16.00	2,447	4.26	40.0	
General Accident	198,986	152,854	76.82	26,892	13.51	54,074	27.18	34,834	-17.51	33.2	
Hearts of Oak Life and General	1,068	306	28.65	163	15.26	356	33.33	243	22.76	33.0	
Imperial Accident (b)	7,406	3,512	47.42	1,131	15.27	1,485	20.05	1,278	17.26	33.3	
International	3,489	1,108	31.76	1,778	22.50	1,603	45.94	.....	.....	33.5
Law Car and General	76,320	51,092	66.94	16,602	21.75	6,857	8.98	1,769	2.33	40.0	
Legal	969	59	6.15	164	17.10	312	32.53	424	44.22	33.3	
Local Government Mutual	3,652	1,811	49.59	418	11.45	664	18.18	759	20.78	56.0	
National General	4,896	2,890	58.94	1,079	22.06	1,820	37.25	893	-18.27	33.3	
National of Great Britain	3,527	1,969	55.83	510	14.46	672	19.05	376	10.66	33.3	
Northern Equitable	4,720	844	17.88	963	20.40	3,271	69.30	358	-7.58	27.3	
Premier	2,398	947	39.49	500	20.85	907	37.82	44	1.84	19.0	
Primitive Methodist	457	16	3.50	23	5.03	118	25.82	300	65.65	60.0	
Provincial Fire	1,088	602	55.33	166	15.26	320	29.41	.....	.....	30.5
Royal Scottish	9,774	6,561	67.13	1,654	16.92	1,509	15.44	50	.51	35.8	
Totals, Non-Tariff Companies	£531,793	£371,335	71.15	£20,436	15.42	£120,801	33.16	£50,780	-9.73		
Combined Totals, Tariff and Non-Tariff Companies	\$2,608,910	\$1,856,675		\$402,130		\$604,005		-\$253,900			
	£2,552,012	£1,628,019	63.80	£347,435	13.63	£586,139	22.97	£9,981	.40		
Tariff Companies	\$12,760,060	\$8,140,095		\$1,739,175		\$2,930,695		-\$49,905			

NOTES: With a few exceptions, the financial year ended on 31st December, 1908. (a) Cols. 7 and 8 include £402 and .19% for income tax. (b) Col. 2 based on premiums reported. £7,663, less £122 policyholders' bonuses. (c) Return includes foreign business. (d) Col. 2. Unearned premiums from previous year obtained by deducting claim reserve from funds. (e) Funds brought forward from previous year, £115,213, divided arbitrarily thus:—Contingency reserve, £5,000; unexpired risk, £67,101; claim reserve, £43,112.

* Five dollars is used as the equivalent of one pound (£1.).

TABLE 6
TOTAL BUSINESS AND RESULTS, FOUR LARGEST BRITISH
EMPLOYERS' LIABILITY COMPANIES, 1909.

COMPANY	Premiums	Losses Incurred	Expenses	Surplus	
	£	£	£	£	
Employers' Liability ...	1,046,151	587,073	388,500	70,578	\$352,890
General Accident.....	1,168,303	621,282	519,148	27,873	139,365
London Guarantee and Accident.....	558,343	278,230	247,966	32,147	160,735
Ocean.....	1,477,805	792,871	605,554	79,380	396,900
	4,250,602	2,279,456	1,761,168	209,978	
	*\$21,253,010	\$11,397,280	\$8,805,840		\$1,049,890

UNITED STATES BUSINESS, 1909.

COMPANY	Premiums	Losses Incurred	Expenses	Surplus	
	£	£	£	£	
Employers' Liability....	697,906	326,702	252,986	118,218	\$591,090
General Accident.....	615,172	205,586	266,289	143,297	716,485
London Guarantee and Accident.....	438,190	221,247	173,147	43,796	218,980
Ocean.....	595,612	318,845	210,585	66,182	330,910
	2,346,880	1,072,380	903,007	371,493	
	\$11,734,400	\$5,361,900	\$4,515,035		\$1,857,465

BRITISH AND OTHER SECTIONS, 1909.

COMPANY	Premiums	Losses	Expenses	Surplus or Deficiency	
	£	£	£	£	
Employers' Liability....	348,245	260,371	135,514	-47,640	-\$238,200
General Accident.....	553,131	415,696	252,859	-115,424	-577,120
London Guarantee and Accident.....	120,153	56,983	74,819	-11,649	-58,245
Ocean.....	882,193	474,026	394,969	+13,198	+65,990
	1,903,722	1,207,076	858,161	-161,515	
	\$9,518,610	\$6,035,380	\$4,290,805		-\$807,575

* Calculated basis \$5.00 to £1 (1 pound)

profit in the United States and each company operated at a significant loss in Great Britain.

These conclusions are only strengthened by a detailed examination of the reports of 77 companies engaged in the employers' liability business, and made to the Board of Trade of England for the year 1909.^(a) But it may be asked, Why should business be undertaken at a loss? Why are not rates immediately raised if loss is being steadily sustained? We have seen that rates are being advanced and in view of the condition which evidence discloses it must be assumed that they are moving upwards as rapidly as circumstances permit. A fact and its explanation are, however, quite different things. The British insurance situation presents an interplay of many forces. One can quite readily see the plain outlines of the condition without perceiving all the factors which contribute to its maintenance.

Explanations
Advanced
for Insurance
Losses

It is frankly stated in insurance circles that there is not sufficient data available nor has sufficient time elapsed to permit the formation of an accurate actuarial judgment of the liabilities created by the Act of 1906. This primary difficulty is augmented by the complexity of the measure and the variety of contingent liabilities surrounding its future. It is further said that many fire insurance companies have gone into the liability field to protect household insurance, the peaceful possession of which is threatened by the entrée to the householder which new liability companies likewise taking fire risks have secured since the inclusion of domestic service in

^(a) Statements Employers' Liability Insurance Co., year ending Dec. 31, 1909.

the Act. It is further explained that fire underwriters are willing, although undoubtedly not anxious, to incur loss, while the taking of a limited amount of losing employers' liability insurance is to be regarded as an incident in the protection of their standard business. But, however dissatisfied we may be with any or all of the explanations offered for the present English insurance situation, the fact which cannot be gainsaid is that the pecuniary burden of the Act neither has been ascertained nor is yet capable of ascertainment. If the pecuniary cost of this legislation defies the experience and judgment of those whose business success depends upon the successful calculation of risk, who shall endeavor to express its terms?

Cost of
Insurance
Administration

A fixed element in the cost of all private insurance is the expense of administration. Statistics in England, like our own, indicate that for every \$1,000 paid by an employer, some \$400 is lost on its way to the injured man. We might assume from these circumstances and the natural temptation to lessen the charges for adequate protection, that mutual insurance would find a large field of service in England. But in spite of the opinion expressed by the Departmental Committee in 1904 as to the important and essential function which mutual insurance could perform in the administration of the Compensation Act, Parliament has not seen fit to encourage any form of it under the Act which employer and employe would support by joint action.

There seems to be a general impression that the Act somehow aids the British employer to enter into some mutual scheme which will bring himself and his workmen together upon some equitable basis. The Act, how-

ever, expressly discourages contracts outside of its terms and permits them only under conditions that do not encourage the growth of substitutes.

Needless to say, no employer would undertake to maintain a plan of relief as well as meet the liabilities of the Act. He can, however, provide a substitute for these liabilities in only one way. He may present to the Registrar of Friendly Societies a scheme conferring upon his employes equal or greater benefits than the provisions of the Act. In that event the Registrar must certify, not only that this is the effect of the scheme, but that a majority of the employes to whom the scheme is applicable favor it, and their opinion is to be ascertained by ballot. The plan must not require its acceptance as a condition of employment, and the worker agreeing to it must be permitted to withdraw at will. When all of these conditions exist, the certificate of the Registrar permits such a plan to remain in force for not more than five years. If not fairly administered, the scheme may be revoked at any time. A plan thus approved is a permissible substitute for the benefits of the Act; it has not, however, any binding force. Its acceptance is not obligatory either upon the workmen who voted for it or the minority who may have been opposed to it. The approval of the Registrar does not in any way apply it to the employment for which it is approved. It merely permits the employer, after these various conditions have been complied with, to contract with each workman individually in accordance with these terms, and each individual may accept it or reject it. The difficulties of organizing systems of this character are indicated by the decreas-

Contracting
Out Schemes

ing number of workmen to whom they apply. The number of workmen to whom the Act of 1897 applied was much less than was covered by the Act of 1906, but in 1904 129,335 employes were covered by contracting out schemes; in 1909 there were but 66,952 in like condition.

The Great
Eastern
Railroad Plan

Prior to 1897 all the large English railroad systems maintained mutual relief organizations some of which possessed a high reputation for efficiency and were quite satisfactory to their members, but since the passage of the Compensation Acts, practically all have been abandoned except one in force on the Great Eastern Railroad. That company is now the largest employer, and indeed the only very large employer contracting out of the Act. Nearly 30,000 workmen are covered by its plan, the particulars of which will be found in the Appendix, page 353.

The Iron Trade
Employers'
Insurance
Association

Mutual insurance of employers engaged in the same or allied industries, finds its best expression among mine owners and in the unusually excellent organization existing in the iron trades. The Iron Trades Employers' Insurance Association, Ltd., is a mutual organization of engineers and shipbuilders, who are members of the Engineering and Shipbuilding Employers' Federation. The Association is not allowed to take as members any firm not a member of such Federation. A most interesting memorandum describing the organization and methods of this Association is included in the Appendix on page 373, and is presented through the courtesy of Mr. S. R. Gladwell, secretary of the Association by whom it was especially prepared for publication. The Association insures the liability risks of its members, who employ altogether

upwards of 250,000 workmen. It is managed by a board of directors composed of large employers of exceptional ability and experience, and numbers on its staff supervising experts with exceptional insurance training. The Association, by its nature, avoids elements of expense essential to private insurance, having no commissions and no dividends to pay, the services of its directors being likewise without charge. Under these circumstances the experience of the Association presents further striking evidence of the native difficulties which underlie any effort to successfully estimate the pecuniary liabilities of the Compensation Act.

The operation of the Association from 1903 to 1909 is expressed in the following financial statement. During seven years of operation satisfactory to its members, it has succeeded in underwriting their total liability with a premium income of £866,680 (\$4,333,400) at a total net profit of one-tenth of one per cent.

Operation of
the Association
from 1903
to 1909

	Premiums Received	Losses	Expenses	Percentage of Profit or Loss
	£	£	£	
1903	72,834	62,856	9,580	+ 0.6
1904	77,382	73,183	9,955	— 7.3
1905	89,574	83,003	11,176	— 5.0
1906	116,376	121,422	11,079	—13.8
1907	121,544	111,607	11,576	— 1.3
1908 (18 mos.)	244,925	210,996	20,107	+ 5.6
1909	144,045	115,439	13,842	+10.1
Totals	£866,680	£778,506	£87,315	+ 0.1
Total losses and expenses.. £865,821				

**Summary
Respecting
British
Compensation
Insurance**

For 13 years the great insurance organizations of Great Britain have wrestled with the actuarial problems within the Compensation Acts. Exceptional technical skill, experience and ability have directed their effort. Every business incentive has spurred them to the conquest. But the remarkable success which has attached to every other department of the British underwriter's vast activities is strangely absent from his endeavor to gauge the employer's risks under these measures. Rates rose and fell under the influence of the sharp early competition. Their upward trend is now long sustained. But 13 years has brought no stability. The outlines of liability are still vague and indefinite. The fault is not in the actuary, it is in the Act. He cannot give shape to that which is formless and void and state in fixed terms that which is by nature vague and uncertain.

CHAPTER THIRTEEN

Primal Defects of the British Legislation

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CHAPTER XIII

PRIMAL DEFECTS OF THE BRITISH LEGISLATION

British compensation legislation sprang into being at a time when the public attention was being called to the legal and economic hardships of the British workman. The rise of the Labor Party gave strength to a protest and a demand, the one complaining of the legislation of the past, the other proposing measures for the future. The trade unions had fought their way through a variety of legal disabilities not merely to toleration, but to exceptional legal privileges for their members. As the Labor Party grew in power and Parliamentary representation it became a considerable factor in British politics. Its influence was seen in the Act of 1897 and in the extension of the terms of that measure to all forms of employment. Many details of amendment express its reiterated demands. Indeed, political pressure is historically a much more reasonable explanation for many phases of existing legislation than the patent fact of investigation disregarded and experience unrecorded.

The doctrine "of personal liability for injuries received in the course of employment" was said to have been "imported into England from Germany in an unmanufactured

Circumstances
Producing
British
Compensation
Legislation

state and made up, perhaps not very artistically, into the Workmen's Compensation Act of 1897."^(a) We have, in preceding pages, enunciated its principles and policy in the language of those who gave it being and under whose leadership it assumed its final shape. Whether due to the difference of viewpoint or condition, they seem to approach the problem full of the spirit of the Poor Laws. It clings to their thought like burrs to a beggar's rags. Their vision is fixed upon the "dependency" that may follow injury. The employer becomes an instrumentality to relieve indigence. The debates in Parliament, the speeches from the stump which preceded the Act of 1897, and followed its adoption, dwelt continuously upon the "dependence" created by serious disability. "Relief for distress" is the term which runs through ensuing reference to compensation legislation in the reports of the Departmental Committee of 1904 and the wider public discussion antecedent to the broader law of 1906. The whole literature expounding the virtues and vindicating the liabilities created by Parliament presents the Compensation Act in the guise of a gigantic scheme of poor relief. This is borne out no less by the extrinsic evidence of public statements than by the intrinsic characteristics of the statute. It gives no consideration to the workman's injury; it salves it only with limited pecuniary recompense. It neither requires nor encourages, as does the German law, medical attention. It bears no relation to the prevention of injury; it does not investigate its causes, and, knowing that ignorance and neglect may permit trivial injuries to de-

(a) Law of Employer and Workman in England, Ruegg, Chap. V, p. 146.

velop into serious disabilities, and that sound healing depends upon first aid, takes no step to contribute to recovery. It seems to consider the individual's wants but not his needs. It regards the workman as one who must not be permitted to become a public charge. Its thought is concentrated upon making some individual relieve distress which might require the aid of the state. It views the whole problem in terms of charitable intervention.

How different is the German viewpoint. It thinks in terms of national policy as well as humanity. It studies to meet the causes as well as the effects of work accidents, and it regards each injured workman not only as a man but as a national industrial asset, whose productive power, when impaired, is to be restored as well as recompensed. It meets the claim for injury with justice, but having traced its origin to the circumstances of production, it makes the collective agencies answer, and not the individual possessing but limited control of its conditions. It preserves and strengthens individual self-respect and independence by making compensation awarded, rest, not upon need and distress, but upon a sturdy right to assistance derived from personal contribution given, and the state, having laid upon industry an obligation to provide against accident and its consequence, leaves the responsible parties to create the means of relief by joint contribution, self-administered.

So much for the elementary theories and spirit of the English system, and they are of no little consequence to a nation like ours that prides itself upon the self-reliance of its people. It is one thing to provide relief to which individuals are justly entitled; it is quite another to give

it under circumstances and conditions in which the most admirable qualities of individual character suffer in the taking.

The Lack of
Preliminary In-
formation and
Recorded
Experience

But are the methods which have accompanied the establishment, operation and extension of English compensation legislation worthy of our imitation? We face a great task. Ought we not to go about it with that elementary caution which should characterize a prudent man in an undertaking of ordinary importance? Yet what judgment commends important action without knowledge. Every nation of Continental Europe which has established, much less extended its system of compensation, has done so only after elaborate investigation directed and sustained by trained minds. The German fortified each step of his progress with the accumulated records of national experience. Great Britain undertook a vast social experiment, the introduction into an ancient system of novel principles in antagonism with deep-rooted habits, customs, mode of thought and traditions. It mixed its legislative chemicals with anxiety and curiosity, but set no watcher in the social laboratory to observe their reaction. Ten years of national life passed under the continuing influence of new obligations affecting the lives of millions of subjects and yet the evidence of their effect is to be gathered by the curious, only, from the scattered experience of individuals or the fragmentary information of private concerns. A single committee investigated the effects of legislative action, complaining as it probed of the difficulties arising from the absence of information that should have filled the public records, but the complaint passed unheeded, the defect remained unremedied, and the recom-

mendations of the only public body entitled to speak with authoritative voice finds little in the subsequent legislation of 1906 to suggest its own labors or conclusions, and considerable evidence that they were either disregarded or made the subject of contrary action.

The very terms defining individual liabilities and fixing the financial burden of industry remained in the new legislation onerously indefinite, piling the costs of hidden contingencies upon heavy existing charges. Injustice was added to uncertainty by making that misconduct which had been a bar to recovery under the Act of 1897 no bar to compensation unless recklessness failed to result in serious and permanent disability or death.

For the first time in English legal history the bar sinister was removed, the illegitimate became of right an equal competitor with the legitimate child in the distribution of parental compensation. No added right of action was given to an illegitimate child under the common law or statute. Here and here alone a right was given which was denied under equally distressing circumstances outside the Act. Thus again the Act speaks in terms of dependency and poor relief.

Recognition
of Illegitimate
Claimants

Great Britain has not followed the logic of her own law. Making each employer accept the obligations of a limited insurer, he possesses none of the privileges of insurance. He carries the risk without knowing the premium and is thus forced to regard each employe as a hazard, a circumstance which has wrought unspeakable hardship upon elderly and defective workmen. To this unhappy condition public attention was called by the report of the Departmental Committee in 1904, and a remedy

Effect upon
the Employ-
ment of
Elderly and
Defective
Men

was suggested, but, like other recommendations of that committee, it remained unnoticed. This distressing situation led Sir Edward Brabrook, late Chief Registrar of Friendly Societies, a man of long experience and high official position in the administration of the Act of 1897, to denounce what he termed "the horrors" of the Act, in the address which he delivered to the International Conference on Social Insurance at The Hague in September 1910. Dr. Collie, medical referee of the English Home Office, at the same time and place, quoted the opinion of the Local Government Board inspector, "that the Workmen's Compensation Act has done more than anything else in recent years to force men between fifty and seventy years of age into the workhouse."^(a) The Poor Law Commission confirms this opinion by a similar finding in its annual report for 1909.^(b) Yet these unfortunate consequences seem inevitably associated with raising individual liability to an extreme point, for the employer, whatever his sympathies, is forced into the situation where he must retain the services of elderly and defective men at an enhanced premium, or pitilessly supplant them with younger men, representing diminished risk and proportionate reduction of overhead expense. English experience seems to suggest that this result can be avoided in any application of the compensation principle only by eliminating personal liability and substituting for it contribution to a solvent insurance fund.

(a) Bulletin des Assurances Sociales. Conference Internationale de La Haye, p. 154.

(b) Report Poor Law Commission 1909, p. 220.

Avowedly intended to provide compensation for accident, the Act has in fact made the employer by decision liable for disease, for the English cases make it apparent that compensation is frequently paid for accidents actually due not to work, but the physical state of the workman. The Act has thus overshot its mark and covered a field greater than its purpose.

Inclusion of
Disease by
Construction

Can a measure of this nature be a proper model for the imitation of our states?

We are dissatisfied with the waste and bitterness which follow in the wake of litigation, but this Act neither stems waste, removes elements of personal antagonism nor prevents resort to the courts. We desire a single liability. If we imitated the terms of the Act we should find ourselves possessed of three methods of legal controversy.

Features
Unworthy of
Imitation

We want to bring employer and employe together in a joint effort to reach the causes and alleviate the consequences of work accidents, but this measure neither prevents accidents nor secures the moral or pecuniary contribution of employer and workman toward their relief.

If we are to have compensation at all, we wish to assure that of the workman of the small employer as well as the great. This measure has never secured that result. We want a system that assists in the restoration of impaired working capacity by prompt medical relief, but this Act gives no heed to the injury save to make it the basis of a pension. Common sense suggests that any liability created, however great or small, should be definite and stable, but the obligations of the Act are fluctuating and uncertain from its very nature. We must not create a condition adding new difficulties in securing employment to the

Effect of the
Act
Unsalutary

handicaps of age and disease. This Act created to relieve the "dependency" of the injured, has made an army of dependents among the maimed, the halt and the infirm. Above all, we cannot afford in the establishment of any system or the formulation of any legislation involving the compensation principle, to proceed without due investigation, acquainting ourselves with our own problem before we undertake its solution, and illuminating each step of our progress by the accumulated experience of our march.

CHAPTER FOURTEEN

Findings and Recommendations of the Committee

CHAPTER XIV

FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

From the investigations herein set forth, your Committee finds:

I.

That limited compensation for personal injury received in the course of employment is assured in the chief states of Europe and many of the British colonies. Such legislation, substantially, predicates:

Principles
of European
Legislation

That accidents, during work, frequently arise from unavoidable risks inherent in the nature and circumstances of modern production; that the economic consequences of such injuries should be borne primarily by the employment in which they occur and ultimately by society in whose service they are incurred and not entirely by the workmen to whom they occur; that this may be beneficially accomplished by transferring a limited charge for assurance against impairment of working capacity to society, as a cost of production, thus making certain the relief of the employe without unduly burdening the employer.

That the waste, delay and harmful bitterness engendered by litigating claims for personal injury in a legal

system based upon fault as the sole ground of recovery justify and require that the state in the public interest make other equitable provision for the speedy adjustment of such controversies.

That *causes* of injury are to be anticipated and averted no less than *consequences*. Therefore, serious misconduct jeopardizing the life or limb of others or self inflicted injury diminishes compensation or denies it.

That all employments are included save in exceptional instances where difficulties of application delay extension.

All European legislation embodying these ideas in variously qualified form, is neither framed with equal wisdom nor administered with like success. But the admirable enforcement of these principles in many states supplies conclusive evidence that rightly applied they are socially, economically and industrially advantageous, and if adapted to our form of government, mode of thought and conditions of labor, would confer undoubted benefit.

II

Accident
Prevention
and
Medical Aid

That the advantages perceived were secured and are maintained only in accompaniment with a sound, vigorous and scientific system of accident prevention, obtaining public and private co-operation, with suitable provision in all cases of personal injury for prompt and efficient first aid treatment provided by the employer, and of which the injured person may be required to avail himself under penalty of losing or diminishing subsequent compensation.

III

That sound compensation laws rest upon a solid foundation of fact obtained through the deliberate and impartial investigations of trained men, and, in the opinion of recognized European authorities, require for successful administration the continuous collection and compilation of statistics relating to every circumstance of accidents and their compensation, and the progressive application of such ascertained experience.

Careful Investigation Essential to Sound Legislation

IV

That the German empire, which first applied the principle of assured compensation, is, among all the countries of Europe, the most practically successful in its application; that it alone compiles, possesses and has continuously applied the record of its experience to the development of a scientific system of accident prevention and compensation. That its accumulated statistics and tested methods are of compelling influence on the legislation of Europe. That its conditions of employment and ratio of agricultural to industrial workers, its progressive application of mechanical forces to new employments, make its methods and information a profitable study for ourselves. That while many details of its administration are neither applicable nor desirable, the chief principles of the German system of accident compensation may be adopted in our respective states by voluntary action or through permissive legislation and, in a large degree compelled by statute.

High Value of German Statistics and Experience

U.S. 85

V

A Solvent
Insurance
Fund
Preferable
to Individual
Liability

That assurance against loss of working capacity is the basis of all European systems of compensation, avowedly in most systems, logically in all others, declared in German legislation, implied in English legislation. That each European system fails in the practical execution of its theory in the proportion that it rests compensation of injury upon personal liability and not upon contribution to a solvent insurance fund from which awards are paid. That if every employer becomes a limited insurer in law, he should become an insurer in fact, and the obligation of contributing to a compensation fund or providing an acceptable form of insurance should become a substitute for personal liability. That contribution to a common fund, in accordance with the ascertained hazard of the employment, assures compensation and makes it a definite charge. That mere increase of personal liability with optional insurance enlarges the burden of the great employer, with no assurance of recovery from the small one. That the creation of a compensation fund administered by the contributors or the state, but preferably the former, permits provision for simple, cheap and rapidly moving machinery in the adjustment of claims, eliminates the bitter antagonism and social friction arising from opposing interest inseparable from personal liability, covers hard cases without excessive cost, allows without undue or inequitable burden, a higher rate of disability and death benefits and permits the calculation of a fixed annual charge for legal risk capable of decrease by accident prevention.

VI.

We find that limited compensation through insurance is successfully obtained: through the creation of a fund *administered* by the state, to which employer and employe contribute and from which compensation is paid; or through a fund *supervised* by the state to which employer and employe contribute and in the administration of which they are represented in proportion to their contribution; or through voluntary mutual associations, either of employers alone or of employers and employes, organized under permissive legislation; or in private insurance associations in which the employer may carry his risk in those nations where compensation is assured by the extension of personal liability.

Methods of
Insurance

That the most efficient, economic and progressive insurance system is one in which an intimate relationship is established and maintained between shop management, insurance management and the supervision of accident prevention, and in which rates can and will most closely conform to the accident record of the individual employer.

VII

We believe those systems most equitable and expedient which require minor contributions from employes. They alone provide a justly proportionate distribution of the pecuniary burden, assured dual interest in the discouragement of fraudulent claims and mutual co-operation in the practical prevention of accidents, for which employer and employe are jointly responsible. They provide a necessary

Contribution
by Employes

protection against the contamination of those qualities of thrift and self-reliance which have ever been regarded as among the most valuable assets of American character.

VIII

Creation of a
Single Liability
Essential

We find compensatory legislation is intended to exclude or purposely endeavors to discourage, save in exceptional cases, the use of pre-existing remedies at law. The creation of a single liability or a single obligation to contribute to a compensating fund, is the purpose and evident tendency of all foreign legislation. A single liability is essential to the satisfactory operation of the compensatory principle and its adoption should therefore be accompanied by the repeal, as far as possible, of all other remedies.

IX

Compensation
Principle
Should Apply
to All
Employments

We find in the complete statistical record of the German empire covering a period of 25 years and sustained by the less complete returns of other European countries and the relative rates of private insurance therein, that we must readjust our conventional notions of the comparative hazard of various employments. European and Canadian^(a) official statistics and the comparative personal accident rates of American insurance companies all indicate a high percentage of accidents in agricultural as well as industrial pursuits. If, therefore, any employer is to become an insurer against accident in employment, all employers should bear the same burden in

(a) See Appendix, page 377.

proportion to the actual hazard of their particular pursuit. We find that the application of the principle of compensation should be universal, or it places unequal and arbitrary burdens upon classes of employers and denies participation in the benefits of its remedial provisions to vast classes of employees.

X.

We find that the amount of compensation required under the various European systems is not regarded as a complete indemnity but as a substantial expression of the impairment of earning capacity. That in the better systems it is neither allowed nor intended to recompense trivial injuries nor breed paupers by corrupting thrift. That to this end a reasonable waiting period is established between the reception of injury and the allowance of compensation; that such precaution alone provides efficient defense against the conscious or unconscious exaggeration of slight injury and safeguards self-reliance. We find further, however, that during such waiting period, from the moment he has notice of accident, the employer should provide first aid and necessary medical attendance, thus preventing trivial injuries from becoming serious disabilities through ignorance or neglect.

Limitation of
Compensation
and Medical
First Aid

XI

We find that as an essential feature of administration, all European systems provide for cheap and expeditious adjustment of claims. That employer and employe are

**Adjustment
of Claims.**

encouraged to reach an agreement. That in the event of a dispute as to the facts or application of the law, resort is had to arbitration, the finding of the arbitrators on questions of fact being final and appeal permitted only on questions of law. We believe similar provisions advisable, practicable and attainable through the agency of contract and the creation of arbitrators, by conferring powers of arbitration upon our judges or persons chosen by the disputants, subject to ultimate rights of action which are likely to be exercised or remain dormant in accordance with the practical operation of such preliminary aids to agreement.

XII**Necessity
of Uniform
Principles of
Compensation
Among Our
States**

We feel called upon to emphasize that any application of the compensatory principle in our own country requires assurance of substantially uniform legislation by the states of the Union. The establishment of a variety of systems differing in form and substance and creating new liabilities, varying in nature and degree, would produce conditions too obviously harmful to require amplification.

XIII**A Sound
Policy of
Compensation
a Primary
Consideration**

We are conscious that the introduction of principles implying systematic compensation for accidents of employment into our form of government bristles with legal difficulties. We are not here concerned with their consideration or discussion; we are primarily interested in the selection of a sound policy. We believe, how-

ever, that at the present time and during the period of investigation which must necessarily precede the adoption of a satisfactory system, voluntary action by private employers should receive public encouragement.

While our legislatures are engaged in deliberating over the wisest method of exercising their powers of compulsion, splendid forces may be set in operation if they will give attention to their opportunities for persuasion. Pending the formulation of a public system, the voluntary adoption of equitable schemes can be expedited by lessening the liabilities of employers who guarantee just compensation as well as by threatening the legal defenses of employers who do not.

"Persuasive"
Legislation

We therefore conclude from the better results of European experience that for reasons of justice, economy and well-being we ought to endeavor to substitute for a system in which redress for injuries received in employment rests upon established fault, one in which limited compensation is assured for all such injuries, by methods making possible such broad distribution of the burden as will rest no harmful weight upon individuals, and protect and encourage the careful employer. We believe assured limited compensation for work injuries to be a desirable and necessary end, to be successfully executed through a method of insurance clearly providing an equitable, certain and definite distribution of risk.

A Sound
Compensatio
System
Practicable
and Desirab

No scheme can be complete or satisfactory which does not inseparably associate prevention with compensation, authorizing intelligent and impartial state and private inspection, arousing public interest and directing the public mind to the importance of averting accident, an object

Accident
Prevention
Inspection
and Educati

to be attained through municipal and state museums of safety appliance and the continuous compilation and publication of accident statistics.

Final
Summary

Successful legislative action throughout Europe has been preceded by deliberate and painstaking investigation, extending in many instances through years of effort in the collection and comparison of information. We are fortunately able to avail ourselves of the most practical features of the Old World's labor and experience. But we should make a start for ourselves here and now, providing at once for the accumulation in our respective states of that accurate information which is a basic necessity for intelligent action. Having once determined upon a rational policy of compensation, we believe rapid progress can be made in giving it appropriate legal form and adapting it to our customs and institutions. We should act now and as rapidly as is compatible with the greatness and complexity of the subject and its intimate relation to the prosperity of the employers and workmen of our country.

We do not believe we can draw our discussion to a close more fittingly than by quoting from an English official source a statement that at once epitomizes our problem and contains a final word of admonition:

"Whatever may be the true view as to the incidence of the burden of compensation for accidents, it seems plain that if the cost thrown, at all events in the first instance, on the employer is excessive, the ultimate loss consequent thereon will fall with equal or greater weight upon the workman either by diminution of wages or loss of employment, or

RECOMMENDATIONS FOR ACTION IN UNITED STATES 269

loss through the insolvency of the employer. The problem, therefore, is to attempt such an adjustment of the burden as will enable the great industries of the country to be carried on without an excessive share of the losses occasioned by industrial accidents being thrown either on the employer or the employed."

APPENDIX

PART ONE

**Letters from Prominent German Authorities on the Practical
Working of the German Social Insurance System,
with Special Reference to Accident
Insurance**

APPENDIX

PART I

However fair and unprejudiced an inquiry is, the personal viewpoint of the investigators is sure to influence the findings.

This report is made from the viewpoint of the humane, progressive employer, and is intended primarily for the information of employers. By humane and progressive employer is meant the man who, while having achieved success as a manager of men or captain of industry, places humanity, patriotism and good citizenship above personal or class interest.

In order that the reader may have the opportunity of drawing his own conclusions, we print herewith a number of letters written by men of great importance in European systems of workmen's compensation for occupational accidents. We call special attention to the first two letters, the writers being Dr. Kaufmann, President of the German Imperial Insurance Department, and Dr. Splecker, Chairman of the League of Employers' Associations and President of the Siemens & Halske Company. There are no bigger and broader men anywhere connected with the subject under consideration and their readiness to help the National Association of Manufacturers in its search for information and education should be hailed as the first evidence of international co-operation among employers' associations.

That co-operation of this kind between European and American employers can be of great service to all concerned, requires no prophet's mind to foretell.

TRANSLATION OF LETTER FROM DR. PAUL KAUFMANN,
PRESIDENT GERMAN IMPERIAL INSURANCE
DEPARTMENT



DR. PAUL KAUFMANN
President Imperial Insurance
Department, Berlin

BERLIN, October 11, 1910.

MY DEAR MR. SCHWEDTMAN:

In view of the enlightened interest which you have shown in the German system of workers' social insurance during our various conferences, I gladly comply with your request to sum up the principles upon which this great monument was built.

The underlying thought of German workers' social insurance is a harmonious combination of compulsory and voluntary action. Workers' insurance is obligatory under the law and the obligatory principle is indispensable for workers' insurance on a large scale. The obligatory principle was very much opposed for a while after the memorable Imperial message of November 17, 1881. Only through the overpowering personality of Prince Bismarck could this opposition be overcome.

Today no further doubt exists in Germany as to the necessity of the obligatory principle. There is a growing demand for the extension of obligatory insurance to the middle classes. The obligatory principle has been recognized, not only in Germany but by other nations, notably at the last International Insurance Congress in Rome.

Far-reaching freedom of action is an important part of the German obligatory system. Workers' insurance is carried out through legally incorporated organizations with extensive self-governing privileges. Accident insurance rests in the hands of employers' associa-

Success
Achieved
Through
Bismarck's
Personality

Compulsory
Insurance
Best

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tions. Prince Bismarck directed that these employers' associations must be given the greatest possible freedom. They must be kept free from unnecessary restraint, bureaucratic control and red tape.

In keeping with these directions employers' associations were given complete self-administration and were equipped with the necessary legal powers to control their members and enforce compliance with regulations by fines and otherwise. This holds good in agriculture and forestry, as well as in the industries, and in invalidity and accident insurance. The men holding the honorary positions as leaders of these associations have been a strong and influential force in the progress and success of the insurance system.

Legal Powers
of Employers'
Associations

It is essentially the principle of self-administration that takes away the objection to compulsion. German employers have carried the insurance burdens willingly. The exacting offices of elected leaders have been carried in a spirit of patriotic duty. To-day the tendency among employers is to go further than compliance with legal requirements. Many associations have pushed workers' welfare much beyond their legal duties. This is one of the most gratifying features accompanying our social legislation. To-day employers' associations— industrial and agricultural—work in close harmony with state, territorial, city and country officials toward improving the conditions of the poorer classes.

Harmonious
Relations with
Government
Authorities

Social insurance has indeed been a school of social progress for the whole German nation. Particularly pleasing has been its influence upon the workers. They have carried their burden of the cost of insurance and naturally they have taken part in conducting the system. They are represented jointly with employers in arbitration courts and final appeal courts. The close contact established between employers and workers has brought about better relationship. They have worked together in every way with understanding and without prejudice. It is no doubt a result of our social insurance that the feeling between employers and workers is growing more friendly right along. There is much less industrial strife here than elsewhere.

**Harmony all
Around**

The happy combination of compulsion and voluntary action has also worked out well in the relation between the insured, the insurer and the state. Respect for legal authority on the one side and recognition of legal autonomy on the other have produced complete harmony all around which has never been disturbed for a moment, and which is so essential to success.

You must have been impressed with the evidences of the harmonious relations between employers and government officials during your presence at the celebration of the 25th anniversary of our accident insurance system; the evidences of our standing shoulder to shoulder, which were specially noticeable through spontaneous and enthusiastic manifestation of confidence and harmony with state insurance officials that were received from the members of employers' associations.

**Facts and
Figures**

From your studies you understand in a general way the manifold benefits of our insurance system. Nevertheless, I want to call attention to a few facts and figures. Up to December 1909, the complete system (accident, sickness and invalidity insurance) paid \$1,925,000,000 to 94,000,000 sick, injured, invalidated workers and their dependents. The complete system pays out daily \$475,000 and has accumulated reserve funds amounting to \$540,000,000. These figures give an indication of the economic importance of social insurance.

**Prevention
Better Than
Cure**

The wisdom of giving employers' associations all possible freedom of action becomes especially evident in two directions, namely: accident prevention and systematic care of the injured and sick. Recognizing that it is of prime importance to prevent injury since compensation will never replace a father who has been killed, or make up for lost limbs, state officials and officers of employers' associations have concentrated their combined energies upon prevention, and wonderful have been the results. Scientific accident prevention is now recognized as a special and important branch of technical engineering. Invention and prevention have gone hand in hand in this work as advance agents of civilization.

Equally important has proven systematic care of sick and injured workers, in fact, it has created a new special field for the medical

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profession. Without the aid of this new agency our present promising campaign against tuberculosis would be impossible. The workers' lives preserved in this manner mean maintenance and increases of our national resources, and in this way give plentiful returns for the heavy financial burdens which social insurance place upon our economic structure. It is not an accident that the unprecedented expansion of German commerce and industry and the wonderful increase in the economic welfare of the nation during the last twenty years have happened concurrently with thorough-going improvement in the condition of our workers. There is a close connection between the two events. The successful handling of the labor question through social insurance is one of the strongest factors in Germany's constantly growing industrial progress. May Germany find among your countrymen active allies in the direction of its arduous task for reform!

Special Field
for Medical
Science

Germany's
Prosperity
Helped by
System

The United States of North America can build no better monument of its strength and idealistic sentiment than through a successful solution of the problem of workers' social insurance. That this may take place soon is the heartfelt wish of

Yours very truly,

(Signed) DR. PAUL KAUFMANN,

President Imperial Insurance Department.



TRANSLATION OF A LETTER FROM DR. SPIECKER,
PRESIDENT OF SIEMENS & HALSKE CO. AND CHAIRMAN OF
THE LEAGUE OF GERMAN EMPLOYERS' ASSOCIATIONS

BERLIN, Oct. 7, 1910.



DR. F. A. SPIECKER
Chairman League of Employ-
ers' Associations, Berlin

MR. F. C. SCHWEDTMAN,

My Dear Sir:

In further reference to our today's conference regarding workers' accident and invalidity insurance, I want to point out and lay special stress upon the thought which I voiced in the address of welcome on the 25th anniversary of our system in the Reichstag building a few days ago.

During the preliminary consideration of the social insurance laws Prince Bismarck coined the classical phrase "Freedom of Organization, Obligatory Results." At that time German industries accepted "obligatory results" under the promise of "freedom of organization," which means Employers' Associations' self-government of their workers' compensation insurance system. This principle seemed to give the best promise of meeting the desired statutory insurance requirements, the underlying broad principles of humanity, and, above all, effective accident prevention. Today, after twenty-five years' experience, the correctness of this judgment is evident.

Bismarck's
Slogan

Benefits Em-
ploye and
Employer
Alike

Twenty-five years have changed "obligatory results" to voluntary performances. Today everybody who views the situation without prejudice must acknowledge, and does acknowledge, that the task of the employers' associations in this field is a great blessing not only to the workers, but to the industries. It is perfectly evident today that we

have secured higher efficiency in our industries due to increased workers' efficiency, all brought about by relieving our workers from worries and distress on account of sickness, injury, superannuation and invalidity.

You will remember that each time when I gave voice to this sentiment during my celebration speech the whole assemblage heartily applauded and this must convince you that my sentiment and experience are in keeping with that of German industries.

Regarding the relationship of the Imperial Insurance Office to the self-governed employers' insurance associations, please remember that every speaker during the recent celebration laid stress upon the fact that this relationship is, and has been, thoroughly satisfactory during the past twenty-five years. The government insurance department has found its proper function in supervising watchfulness to secure proper compliance with the requirements of the law. We have had no interference with the management of our associations. The relation between the two institutions is proof of mutual confidence as the basis for complete and harmonious co-operation.

Does not
Interfere
with Self-
Government

Very truly yours,

(Signed) DR. SPIECKER.

Chairman League of German Employers' Associations.

APPENDIX

PART ONE

**Letters from Prominent German Authorities on the Practical
Working of the German Social Insurance System,
with Special Reference to Accident
Insurance**

MAINZ, September 1, 1910.

MR. F. C. SCHWEDTMAN,

Berlin.

Dear Sir:

Answering your favor of the 20th ult., I beg to say the following:

System Ideal

In my opinion, the accident insurance system prevailing in Germany at the present time is not only good, but ideal. Changes, except in minor details, do not seem to me to be either necessary or advisable. The system has stood the test both from a humane point of view and otherwise. To think of abolishing it would be absurd. Insurance under a national system of this kind must, in my opinion, be compulsory, if success is to be achieved. Experience has shown that, if left to the individual employer's discretion, insurance is not taken out by a great many. Not only is this detrimental to the interests of the workingmen of such employers, but obviously other employers, more keenly alive to their duties and responsibilities, are also affected.

**Compulsion
Necessary**

**Workers
Satisfied**

In spite of the efforts of social democracy to minimize the benefits of accident insurance, German workingmen are undoubtedly better satisfied under the present system than they would be without it. At least, those who have experienced the benefits afforded by the system feel it as a blessing. Class distinctions have been alleviated by the adoption of accident insurance laws. It was not without reason that the French social democrat Hervé exclaimed, at the Socialist Congress in Stuttgart several years ago, pointing to the well-satisfied appearance of the German workingmen: "They are no Proletarians at all, but belong to the Bourgeoisie." Other indications that the German workingmen are coming to their senses are also in evidence. At any rate, the effects of accident insurance and accident prevention are making themselves felt socially in a most favorable manner. As the compensation is paid out of the Sick Fund during the first 13 weeks,

the workingmen bear a certain part of the cost of accident insurance, their contribution to this Fund being two-thirds. This constitutes only a very small fraction of the total expense of sickness insurance and even a smaller part of the cost of accident insurance, however. It was more on account of their being local organizations and, therefore, better able to render prompt aid in case of accident, that the Sick Funds were called upon to render the initial payments to injured workers. Again, the fact should not be overlooked that the employers who, nominally, only pay one-third of the contributions making up the Sick Fund (the other two-thirds being paid by the workingmen themselves) in reality pay all of it, since the adoption of laws compelling workers to insure themselves against sickness through the so-called "Krankenkassen" (Sick Funds) resulted in a general increase in wages. The assertion may safely be made that the cost of any system of compensating workingmen must, in the end, be borne by the employers, directly or indirectly.

In the End
Employers
Pay It All

Simulation is no doubt diminished by the fact that the first payments are made out of the Sick Fund, the officers of which, being on the ground, are in a position to ascertain the true extent of injuries caused by an accident. The Employers' Associations, however, protect themselves very effectively against simulation by means of systematic medical surveillance (if necessary in sanitariums, etc.) and in other ways by keeping in touch with the injured man through his former employer and their own officials.

Simulation
Prevented

In my opinion, it would be inadvisable to increase the workingmen's contributions to accident insurance, as such contributions would eventually come out of the employers' pockets, anyway, and would, therefore, only cause needless complications. The German Accident Insurance System is properly based on the theory that the damage caused to life and limb by industrial accidents must practically be made good by the employers, as part of their manufacturing cost.

On general social principles it is undoubtedly desirable that agricultural occupations are included in the accident insurance system.

It is, however, of no economic importance to the industrial employer whether or not agricultural workers are also insured against accidents the same as those engaged in industrial occupations. The only effect the non-insurance of agricultural workers can have is to increase the number of men available for industrial activities.

Statistics
Show Degree
of Hazard

It is my belief that to operate an accident insurance system successfully, whether it applies to industry or to agriculture, or to both, it is necessary to organize the employers into groups and to ascertain the varying degrees of hazard for each occupation by means of carefully kept statistics, on which the cost of the insurance to each employer should be based.

There is no doubt in my mind that German employers are unanimous in their opinion with reference to the points discussed above.

Yours very truly,

(Signed) MARTIN MAY.

Chairman Employers' Association for the Leather Industry.

BERLIN, August 24, 1910.

MY DEAR PROFESSOR MANES:

In reply to your inquiry of the 22nd inst., I beg to say that the German System of Accident Insurance, in my opinion, answers its purpose admirably. The object of this system is to make the employers instead of the workingmen bear the economic consequences of industrial accidents, the underlying principle being that the former are the principal beneficiaries of industrial activity and, therefore, responsible for the damage to life and limb caused by accidents. The rule established to pay the workingmen two-thirds of their previous earnings in the case of complete disability seems to me to be a fair one.

Adequacy of
Compensation

In fixing the maximum compensation at two-thirds of the annual earning capacity the fact has been taken into account that workingmen can considerably reduce their living expenses when not at work;

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at the same time they are less apt to "take chances" in their work than if the compensation amounted to their entire earnings.

Another still more valuable feature of our accident insurance system is the fact that only employers in the same line of industry and operating under more or less the same hazards are organized into one insurance association. It is obvious that manufacturers in the same line of industry know best just how to meet the element of danger in their establishments and how to devise the proper accident prevention measures based on practical experience.

Value of
Organizing
Employers by
Industries

Furthermore, it is a very good plan to let the employers manage this branch of insurance themselves without giving the authorities too much chance for interference.

It also seems to me to be the correct point of view to base the workingman's right to compensation solely on the fact that an accident has occurred, regardless of who is responsible for it. Formerly the law required that the employer's responsibility for an accident be proven and this led to unreasonable demands and to conditions in general which became practically unbearable. All this was due to the fact that the laws of the land seemed to be in conflict with the ever-growing sense of social responsibility. Our present accident laws have successfully met this situation.

Cause of Ac-
cident Imma-
terial

Trusting that the above remarks will assist you in your investigation, I beg to remain,

Yours etc.,

(Signed) DR. W. WALDSCHMIDT,

Director Ludwig Loewe & Co.

WOLFSWINKEL, September 21, 1910.

MR. F. C. SCHWEDTMAN,

Berlin.

Dear Sir:

After having been absent for four weeks, I find your valued favor of the 20th ult., upon my return. Kindly excuse the delay in answering.

Could not
Conceive of
Better
System

As you may infer from the fact that I am the Chairman of an Employers' Association, I am heartily in favor of accident compensation insurance, and particularly of the German system in its present form. Without any fear of contradiction, I may safely claim it has operated in an exceptionally satisfactory manner, both from a business and a humane point of view. Indeed, I could not conceive of anything better adapted to meet the requirements. I am quite in favor of leaving the larger part of the burden of expense with the employers. My opinion, which, by the way, is shared by an overwhelming majority of the German employers, is that it would be anything but wise to revive the conditions which existed before our present system was adopted—conditions which had become practically unbearable owing to the inadequacy of private insurance companies and the legal battles constantly under way. General compulsory insurance is necessary to prevent discrimination and consequent unrest and dissatisfaction. It also strengthens the employers' feeling of solidarity.

Strengthens
Employers'
Feeling of
Solidarity

So far as I am able to judge, the trade unions have not been affected one way or the other by our accident insurance system; on the other hand, the public charity organizations which formerly had to care for the victims of industrial accidents are now much relieved and can use their resources for other purposes.

The system is appreciated to a greater extent by the workingmen in the small rural industrial districts than by those in the large cen-

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ters, where agitation and demagogism are at work. The workingmen pay their contribution to the Sick Fund quite willingly—more in view of possible sickness, of course, than because of the comparatively lesser chance of accidents.

Neither do the workingmen take exception to the amount of the cash contributions they have to make to the Sick Funds because the benefits paid to them are proportionately high and their families are benefited by contributory insurance. Simulation is diminished, too. The workingmen's contribution, therefore, has a beneficial effect on the system generally.

A national system of accident insurance, in my opinion, should include agricultural occupations, and I believe German agriculture has been greatly benefited by being made a part of the general accident insurance system.

I trust that these few remarks will give you an idea of how our accident insurance system is looked upon by German employers, and I beg to remain,

Yours truly,

(Signed) KARL MARGGRAFF.

Chairman Paper Manufacturers' Association.

DRESDEN, September 13, 1910.

MY DEAR MR. SCHWEDTMAN:

Employers' Associations have now existed in Germany for 25 years, during all of which time I have acted as chairman of the Saxonian Woodworkers' Employers' Association, so that I am speaking from practical experience in answering your questions as follows:

(1) Do you approve the German Accident Insurance System in its present form?

In my opinion the system is exceedingly practical, especially because of the self-governing feature of the Employers' Associations, by which all red tape is eliminated and injured workingmen enabled to secure an income or a pension as quickly as possible and without the necessity of complying with irksome formalities.

Workers'
Attitude

No Red
Tape

(2) What changes would you suggest?

Only Minor
Points Sus-
ceptible of
Improvement

We approve of the fundamental principles of our accident insurance system. In minor points, such as the accumulation of too large a reserve fund, the miscarriage of justice by allowing pensions for small injuries, etc., we think the system is susceptible of improvements.

(3) Has the German system stood the test both from a humane and a business point of view?

The German system has proven very satisfactory from both points of view.

(4) If it were possible to abrogate all German accident compensation and insurance laws, would you be in favor of doing so?

By no means; for that would be downright folly.

(5) Do you consider general compulsory insurance absolutely essential to the success of a national system?

Yes.

(6) Does the accident insurance system make the German work-
ingman better satisfied?

Socialists An-
tagonistic to
System

Gratitude for accident pensions is frequently met with in German workingmen, but social democracy takes good care not to let this feeling become general among the workingmen.

(7) Has the accident insurance system strengthened or weakened workingmen's organizations (trade unions)?

Since the employers bear the greater burden of accident insurance and therefore manage the affairs of their insurance associations to suit themselves, our accident insurance system does not exert any influence on trade unions.

(8) What is the social and economic result of the German Accident Insurance and Accident Prevention System? (Sickness insurance, old age and disability insurance do not enter into consideration at this time.)

Public Charity
Relieved

German workingmen injured by accidents no longer become a burden on public charity, and the formerly frequent sight of cripples,

street musicians and beggars is no longer met with. Through the accident prevention system all employers are obliged, under penalty of heavy fines and even imprisonment, to install in their plants such accident prevention appliances as may be prescribed by the Industrial Board of Inspection and the Employers' Association. At regular intervals the Board of Directors of the Employers' Association inspects the various plants within its jurisdiction and sees that they are equipped with the necessary improvements and devices for preventing accidents.

Accident Prevention Demanded by Law

(9) Is the workers' contribution to the accident insurance benefits (through the compensation for the first thirteen weeks paid out of the Sick Funds) of any importance?

While this contribution does not amount to very much, it is of value because the Sick Fund authorities clear up the facts in the case and make it apparent at once whether an accident exists or not.

(10) Has it diminished simulation?

Simulation has undoubtedly increased rather than diminished. Many workingmen will stop short of nothing to procure a pension for themselves through the accident insurance system.

(11) Are you in favor of increasing the workingmen's contribution or would you eliminate it altogether?

We employers are not in favor of increasing the workingmen's contribution, since this would entitle them to a voice in the management of the Employers' Associations, and, therefore, enable socialistic agents to penetrate into our very midst, thus opening the door to their propaganda, as was shown in connection with the Sick Funds.

Increase in Workers' Contribution not Desirable

(12) Is it of any interest to the industrialist to have the farmer covered in a national accident compensation system?

Yes; if for no other reason, justice demands it.

(13) Do many other employers share your opinion on the above points?

I have every reason to believe that other employers hold the same views as I do with regard to our accident insurance system.

The above in answer to your questions. My statements, as already suggested, are based on 25 years' practical experience. Of

course, there are many details which might be of interest and I shall be pleased to give you any further information desired.

Yours truly,

(Signed) ERNST GRUMBT,

Chairman Saxonian Woodworkers' Employers' Association.

BERLIN, September 21, 1910.

MR. F. C. SCHWEDTMAN,

Hotel Bristol.

My Dear Sir:

**Ranks Among
Greatest
Achievements
of Nineteenth
Century**

German legislation for the protection of workmen, in my opinion, ranks among the greatest achievements of the nineteenth century. Its chief value lies in the fact that all workmen and administrative officials who depend upon their labor, strength and health for a living are, by law, protected against distress caused by sickness, accident, disability or old age, and guaranteed the right to an income sufficient to keep them out of the poor house.

This legislation has accomplished what in the well-known Imperial message of November, 1881, was pronounced to be the first and noblest task that could devolve upon any commonwealth.

**A Great and
Noble Task
Accomplished**

That other countries have either already followed Germany's lead or are preparing laws for the protection and compensation of workmen, can, therefore, be readily understood and must prove a source of gratification to our people. What has been accomplished by Germany in the way of accident and disability insurance was again demonstrated to the entire world, both orally and in writing, during the 25th anniversary of these branches of our insurance system on October 1, 1910.

As the president of the second largest employers' association in Germany, the Storage Employers' Association, I principally had acci-

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dent compensation insurance in view in making the above remarks, but it may be claimed without exaggeration that the other two branches of insurance have proven equally desirable.

Yours very truly,

EMIL JACOB,

Chairman of the Storage Employers' Association, and Secretary of the League of German Employers' Associations.

COLOGNE-BAYENTHAL, August 15, 1910.

MY DEAR PROFESSOR:

Your favor of the 8th inst. only reached me to-day, as I have been traveling about from place to place; I, therefore, trust you will excuse the delay in answering.

You desire to have my opinion concerning the expediency of the German Accident Insurance System. I could merely answer that I consider this institution and the laws on which it is based Germany's greatest achievement in the line of social reform in the last three decades. I am not egotistical enough, however, to believe that such a personal statement on my part would impress the industrialists of the United States to any great extent or have any influence towards the adoption of a similar system in the United States, and I, therefore, prefer to call your attention to the "Report on the Proceedings of the Extraordinary Session of the Employers' Associations, held on May 26, 1909," which may be considered an authoritative and impressive document in proof of the fact that the duly authorized representatives of all German Employers' Associations, comprising every trade and industry in the empire, consider our accident insurance system so excellent and efficient an institution that only minor details of it seem

Germany's
Greatest
Achievement
in Last Three
Decades

Radical
Changes not
Desired

susceptible of improvement to them and they are not in favor of fundamental changes such as the government, in its new bill relating to Imperial Insurance Regulation, is aiming at. Resolutions to this effect were passed unanimously by the associations represented and there was not a single dissenting voice on the subject, all of which speaks volumes for the accident insurance system in its present form.

Yours very truly,

(Signed) ERNST LECHNER.

Chairman of the Machine Builders' and Hardware Manufacturers' Association.

BERLIN, September 16, 1910.

MR. FERDINAND C. SCHWEDTMAN,

Hotel Bristol.

Dear Sir:

In reply to your inquiry of the 20th ult., and the 12th inst., which greatly honors me, I beg to advise you that I entirely approve of the German Accident Insurance System by which homogeneous lines of industry are organized into Employers' Associations, which are granted the right of self-government. Nevertheless, in adopting a new system of accident insurance it should be carefully considered whether the preference should not be given to Employers' Associations organized territorially, by provinces, districts or the like, the same as in old age and invalidity insurance, rather than to the German associations which consist of employers in kindred lines of industry. My reason for this suggestion is the fact that it is frequently difficult to tell to just what association an employer belongs. Joint hazard tariffs could be created to properly gauge the occupational hazards in the different industries represented by each Territorial Association. Whether, as a

Territorial
Associations
Versus Ger-
man System

matter of public policy, it would not be advisable to let the workmen take part in the management of the Accident Insurance Associations, even though they contribute little to the cost of the system, is a question which merits careful attention. In exercising their right of representation in the Tribunals of Arbitration for workmen's insurance and in the Imperial Insurance Office, the workmen have always conducted themselves in an unobjectionable manner.

Might Let
Workers
Help in
Managing In-
surance Asso-
ciations

There cannot be the slightest doubt that the German Accident Insurance System has proven most satisfactory both from a business and a humane point of view. The employer is benefited by it as much as the workman. It formerly was possible for injured workmen to bring suit against individual employers for damages of simply unheard-of proportions—and that without incurring any expense, by simply proving themselves paupers—and the court decisions rendered frequently drove employers into bankruptcy. If the case was decided in the employer's favor, on the other hand, the workman became an object of public charity and had to go to the poorhouse. Now the workman has a clearly established right to compensation, and damage suits with all their attendant evils are, therefore, made impossible. I would not be in favor of abolishing the German Accident Insurance System by any means and believe in compulsory insurance as absolutely necessary to its success.

Accident Com-
pensation In-
surance
Versus Em-
ployers' Lia-
bility

It cannot be said that the German workmen have become better satisfied on account of the rights granted to them by our accident insurance laws, but, on the contrary, trade unions have been strengthened by these laws.

The social consequences of the German Accident Insurance and Accident Prevention System cannot fail to be noticed. Even if the workingman has to assume one-third of the risk himself he is, as already mentioned, placed in a much better position financially in case of accidents than formerly. As the accident prevention measures initiated by the Employers' Associations contribute a great deal towards reducing the number of accidents, the beneficial social influ-

**Workers'
Contribution
Necessary**

ence of the laws makes itself felt in more than one direction. The workingmen's contribution to the accident insurance benefits (on account of the compensation being taken out of the Sick Funds during the first thirteen weeks) is necessary, since otherwise the Employers' Associations would have to deal with a large number of minor injuries which do not as a rule impair the earning capacity of their victims. The Employers' Associations are at liberty, however, to look after such cases at any time before the expiration of the thirteen weeks, if they think they can accelerate the cure by so doing. Simulation has not been diminished by the laws passed for the protection of the workmen, but, on the contrary, has been fostered and promoted by it. Financially the workmen's contribution is not necessary, as the employers in both agriculture and industry are very well able to carry the burden of accident insurance alone, provided that burden is evenly distributed the way this is done by the German System. For that reason it is of great interest to the industrial employer to have agriculture made a part of the national accident insurance system.

**Co-operation
of Agriculture
and
Industry**

In conclusion I would say that the views expressed above are approved by the majority of the employers in my line, and beg to remain,

Yours, etc.,

(Signed) J. FALKENHAUER,

Chairman of the Team Owners' Association.

BERLIN, August 11, 1910.

PROFESSOR DR. ALFRED MANES:

Dear Sir:

It is a difficult matter to do justice, in a few words, to the importance of our social legislation and the value of our accident insurance system.

The financial aspect counts most. By glancing at the enormous sums raised by employers in the last 25 years for the purpose of

compensating workmen injured by accidents, it is realized how much distress and misery the system has alleviated, if not entirely eliminated. While, in former times, the workman could obtain compensation only by proving the employer's liability for the accident, and was reduced to dire poverty long before his case had been passed upon by the courts, he now has a fully established right to compensation, even if, as happens quite frequently, the accident was caused by his own fault. The broad view that any harm befalling a workman through the very existence of a manufacturing establishment in which he is employed must be offset, as far as possible, by some equivalent in the shape of a fixed compensation, has resulted in an achievement the value of which cannot be overestimated.

Distress and
Misery
Eliminated

It is true that there is another side to the question which it is not our intention to conceal. The prospect of being adequately compensated for any injury he may suffer, diminishes the workman's sense of responsibility. The man who receives an income without working, especially after he has lived in idleness for a comparatively long period of time, loses his fondness for work as well as his efficiency. Hence the wild scramble for pensions, with its disagreeable attendant features, simulation and pension hysteresis. This state of affairs, it is true, is fostered by the long protracted procedure of appeal.

Some Draw-
backs

It would be difficult, however, to overestimate the influence which accident compensation by insurance has exerted in bringing together manufacturers in the same line of industry and in giving them a better understanding of their common needs and interests. Unselfish devotion and unbounded enthusiasm have been brought to the preparation of measures for the prevention of accidents and each one has helped, to the best of his ability, to solve the problem of how best to insure the safety of life and limb in any given line of industry. The narrow-minded exclusiveness which formerly kept manufacturers in the same line of industry away from each other has ceased; one has become the other's teacher, and I have no doubt that the growth of our industries in the last two decades is due in no small measure to the work of our Employers' Associations.

Effect on
Manufac-
turers

Employers
Welded To-
gether

From a political point of view, too, our Employers' Associations have undoubtedly done a great deal of good. The North and the South, the East and the West have been brought into contact with each other. Local prejudices have disappeared, and a feeling of solidarity, a desire to co-operate towards a common goal, have sprung up in their stead and borne many a ripe fruit. This also accounts for the unanimous stand taken by German employers against the insurance reform propositions recently advanced by the Imperial government. How much of these propositions will become law cannot be foreseen at this time. At any rate, the tendency in the government bill to restrict the self-government of the Employers' Associations and to increase the workmen's sphere of influence must be pronounced as exceedingly regrettable. German industrialists are thoroughly in sympathy with the idea of extending the benefits of accident insurance to the largest number of workmen possible, and they will also hail with delight any measure which will shorten the proceedings for fixing the pensions or allowances and the procedure of appeal. The attempt, on the other hand, to create a so-called joint substructure (insurance offices) for all branches of governmental insurance, cannot be fought vigorously enough, since it would ultimately lead to a restriction of the work of the Employers' Associations which has proven so beneficial in the past. Just apprehension is felt that such measures will have the effect of deterring the officers of the Employers' Associations, whose unselfish devotion and enthusiasm have contributed more than anything else to the success of our social legislation, from taking any further part in this work.

New Govern-
ment Bill
Thought a
Menace to
Accident
Compensation
Insurance

Most
Beneficial
Legislative
Work Ever
Undertaken

I desire to sum up my views by stating that in my opinion the German Accident Compensation Insurance System has benefited the nation politically, economically and socially to a greater extent than any other legislative work ever undertaken.

(Signed) G. KRAEMER,

Chairman of the Employers' Association for the Chemical Industry.

BROMBERG, September 17, 1910.

MR. FERD. C. SCHWEDTMAN,

Dear Sir:

In reply to your questions of August 20th, I wish to make the following brief statement:

The German Accident Insurance System, in my opinion, is without a flaw, and may well serve as a model for other countries to copy. System
Without a
Flaw

The injured party is vouchsafed the *right* to compensation; he does not have to *beg* for it. The burdens imposed on the employers are quite heavy, it is true, but having been borne for so many years, have ceased to be felt, and, on the other hand, are offset by the fact that individual employers are no longer liable for accidents. I am very much in favor of affording the workmen every possible legal protection against the consequences of sickness and accidents, as called for by the mandates of common humanity. This necessitates compulsory insurance, legally regulated.

To abrogate our social legislation is something no one would contemplate for a single moment.

The workers are better satisfied than ever before. The workmen's societies or trade unions have nothing to do with our social legislation. Workers
Better
Satisfied

The workmen's contribution to the Sick Funds, which is now two-thirds and is to become one-half, is substantial and presumably somewhat conducive to diminishing simulation. In an accident insurance system eliminating the sick funds, a small contribution of the workmen, possibly 25 per cent, might commend itself. The employer of agricultural labor should be made a part of the accident insurance system.

Yours respectfully,

(Signed) FRANZ BENGSCHE.

Chairman East German Inland Navigation Employers' Association.

STETTIN, August 23, 1910.

MR. FERD. C. SCHWEDTMAN,

Hotel Bristol, Berlin.

Dear Sir:

Has Stood
the Test

In reply to the questions asked of me in your favor of the 20th inst. with reference to German Accident Insurance, I beg to say the following:

Questions 1, 2 and 3 can be answered by stating that the German Accident Insurance System has now operated in an entirely satisfactory manner for a period of 25 years. Such changes as have proven desirable will be effected by the new Imperial insurance regulations.

(4) Even if it were possible to abrogate all German accident laws we would not be in favor of such action. I would not know what better to put in their place.

Better Ele-
ment Among
Workers Ap-
preciate
System

(5) Compulsory insurance is necessary for the successful operation of the system.

(6) The accident insurance system gives the German workman a greater feeling of security with regard to his economic existence. It is only the better element among the workmen, however, that is satisfied and appreciates the benefits the system affords them.

(7) The accident insurance law presumably did not appreciably influence the workmen's organizations.

Simulation
Reduced by
Waiting
Time

(8) The social effects of accident insurance on the German workmen have been extremely beneficial. Injured workmen no longer become a burden on the communities or to the poorhouses.

(9) The so-called waiting time (13 weeks) is absolutely necessary, especially with regard to minor injuries. It undoubtedly diminishes simulation. Slight injuries which, as a rule only carry a tem-

porary compensation with them, are on a par with cases of slight sickness. It should be rendered possible to satisfy the claims to compensation growing out of such injuries by granting a temporary allowance for a certain period of time, so that the injured party may adapt himself to his condition.

Temporary
Compensation
for
Minor
Injuries

It is exactly the small pensions paid for the loss of minor parts which induce the workmen to exaggerate the consequences of accidents and to practice simulation.

(10) A large or direct contribution of the workmen to the cost of accident insurance would not be advisable.

(11) Agricultural workers should also be subject to compulsory insurance, were it only because of the constant changes from agricultural to industrial employment and vice versa.

(12) The above views are presumably shared by the majority of German employers.

Yours respectfully,

(Signed) W. JAHN.

Chairman of the Board of Directors of the Employers' Association
for the Brick Industry.

STUTTGART, September 1, 1910.

MR. F. C. SCHWEDTMAN,

Dear Sir:

Answering your favor of the 20th ult., which reached me on the 28th, I take great pleasure in complying with your request, as it is well that an accident insurance system which has so signally proven its worth, should be copied by other nations.

System's
Worth
Proven

The enclosed statement which I sent to Professor Manes of Berlin, under the date of the 16th ult., covers the subject in a general way, and I shall, therefore, confine myself to answering your various questions, as follows:

(1) Do you like the German Accident Insurance System in its present form?

I approve of it in all its essential points.

(2) What changes would you suggest?

**A Question
of Terms**

**"Booze" Pen-
sions Un-
desirable**

**System Pro-
tects Em-
ploye of
Large and
Small Con-
cern Alike**

**Class Hatred
Done Away
With**

The term "Renten" (pensions) is a misnomer and should be eliminated. It gives injured workmen the impression that they will get something all their lives, whereas merely a temporary allowance extending over a limited period of time—a few months or, at most, a few years—may be involved. Another thing which should be abolished is the so-called "bagatelle" or "booze" pension for slight physical injuries, such as the loss of a few finger joints, weak arms or legs, minor amputations, etc., impairing a man's earning capacity less than 20 per cent. A real permanent economic damage is not caused by such injuries and the allowance, if any, should be stopped after a few years' time. This is doubly necessary and advisable, as otherwise dissatisfaction is spread and a premium put on carelessness, which, in the majority of cases, is the cause of such accidents.

Generally speaking, the German system has proven highly satisfactory both from a humane and a business point of view. There is just one feature connected with it which can be justly objected to, and that is the unnecessary accumulation of enormous reserve funds as required by the law.

I would be anything but in favor of abrogating the German accident insurance laws. Compulsory insurance is absolutely necessary as it protects not only the man who is working for a large and prosperous concern, but also the employe of factories operated on a limited amount of capital, who in times gone by had to go to the poorhouse if injured by an accident.

It can hardly be asserted that accident insurance has made German workingmen better satisfied; the small minority who have been injured by accidents and enjoy the benefits of the system, of course, appreciate its advantages. The great mass of the German workingmen, at best, are gratified at the thought that their fellow-workers who have been injured by accidents, but not killed, are taken good care of and that the families of the others do not have to suffer want. The bitter feelings and downright hatred which formerly existed

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between employer and employe and were fanned by suits for damages, have disappeared entirely, and this alone must be considered a splendid achievement of the German Accident Insurance System. The German Accident Compensation Insurance System has not strengthened trade unions in any way, as the workingmen do not take any active part in the operation of the system, except by acting as co-adjutators in the Tribunals of Arbitration and the Imperial Insurance Office. The Employers' Associations govern themselves under the supervision of the Imperial Insurance Office and resent any attempt on the part of the workingmen or the authorities to interfere in the management of their affairs. A striking example of this attitude is found in the unanimity of opinion with which both industrial and agricultural employers are opposing the new Imperial Insurance Regulations. Neither is it so much the great mass of the workingmen which desires to break down the self-governing barrier of the Employers' Associations, but only the labor leaders who do not belong to the working class, and are actuated by selfish motives in their efforts to take a part in the management of the Employers' Associations. Their co-operation, unnecessary and uncalled for as it is, may be readily dispensed with without working any harm to the workingmen themselves.

Trade Unions
Not
Strengthened

Employers'
Associations
Do Not Want
Interference

The social consequences of the German Accident Insurance System are of the utmost importance. In the first place, there is no longer any danger of a seriously injured workingman becoming absolutely destitute and having to eat the degrading bread of the poor-house as a disabled soldier of trade or industry. Confidence in his employer and in the industry for which he works is awakened and strengthened in the workingman, who knows that everything humanly possible is being done for his protection and personal welfare. His is the mental attitude of the soldier who knows that he is fighting under a capable leader and who stands ready to go through fire and water if necessary.

German
Workers
Given a Feel-
ing of Secur-
ity and of
Confidence in
Their Em-
ployer

It is a very important feature of the German Accident Insurance System that the compensation during the first thirteen weeks is taken out of the Sick Fund. In Germany all accidents, even those caused by

Lawsuits
Made
Impossible

carelessness on the part of the workingmen, give the latter a right to compensation. If this were not the case, there would be no end of lawsuits to determine and fix the responsibility for the accident. In creating the German Accident Insurance System it was expressly provided that all accidents (with the single exception of those caused intentionally) were to be compensated for out of the Sick Funds during the first thirteen weeks. This provision was not a haphazard clause, but a historically well conceived and fundamental part of the German system, without which accident compensation would never have become an accomplished fact. The charge constantly reiterated by the critics of the system that the workingmen share the cost of the insurance by contributing to the Sick Fund from which the compensation is taken during the first thirteen weeks after the accident, is in reality without a foundation; for this contribution is more than offset by the fact that all accidents, even those caused by the workingman's own carelessness, for which the employers could not reasonably be expected to pay damages otherwise, are compensated. Indeed, financially the employers would be better off if they had to pay the entire cost of the insurance but did not have to pay for accidents due to the workingmen's own fault. For practical reasons, however, and principally with the view of avoiding lawsuits and unpleasant controversies between employers and employees which would have continued to arise from the question as to the responsibility for the accident, it was wisely decided to make the law apply to practically *all* accidents. Simulation presumably is not affected by the Sick Fund contribution, as those who want to simulate will do so anyway whether the money they get comes out of the Sick Fund or the Accident Fund.

Workers'
Contribution
Offset

If employers desire to keep the self-governing feature of their associations intact, they are not justified in letting the workingmen contribute to their funds in any way except as is done at present.

It is economically desirable for the industrial employer to have agriculture form a part of a national accident insurance system. The largest share of the products of industry is consumed by the rural population whose purchasing power is preserved and strengthened by

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compensating the agricultural workers for injuries caused by accidents.

A large number of other employers share my opinion on the above subject.

I am indebted for your kind offer to furnish me any information I might require concerning workingmen's conditions in America; you will note from pages 2, 5 and 6 of the enclosed "Guide Book for the Prevention of Accidents" that I am already slightly familiar with the subject of accident insurance in the United States.

Familiar with
American
Accident
Insurance

Yours respectfully,

(Signed) ARTHUR FABER,

Chairman of the German Southwestern Woodworkers' Employers' Association.

BERLIN, August 30, 1910.

MR. F. C. SCHWEDTMAN,

Dear Sir:

Replying to your favor of the 20th inst., I beg to answer your various questions as follows:

(1) Do you like the German Accident Insurance System in its present form?

The German manufacturers have adapted themselves to the present form of accident insurance and are well satisfied with it, so much so that they would not want to be without it.

(2) What changes would you suggest?

I cannot suggest any radical changes in the features of the system.

German
Manufactur-
ers Well
Satisfied

(3) Has the German system proven satisfactory both from a business and a humane point of view?

Yes. The private insurance companies hardly ever paid compensation unless a lawsuit establishing their liability was instituted.

Bitterness of
Feeling
Eliminated

This is now a thing of the past, as is also the bitterness of feeling which used to take possession of workmen who were not compensated for their injuries. The people now know what they are entitled to and what they will get, and they also know that they will get it from an organization which will pass judgment without bias or prejudice.

Justice
Established

The Tribunals of Arbitration and the Imperial Insurance Office, to which they may appeal, are a guarantee to them that they will get justice in all cases.

(4) If it were possible to cancel all German compensation laws, would you advise such a proceeding?

Old Employ-
ers' Liability
Laws a Mis-
take

Under no circumstances would I advise making the least attempt at anything of this kind. To go back to the conditions of employers' liability laws which formerly prevailed would be more than a misfortune and full of social dangers.

(5) Is compulsory insurance absolutely necessary in your opinion for the success of a national system?

Of course, what is fair to one is fair to another. The burdens imposed by the law must fall on all manufacturers alike; to discriminate would mean that one manufacturer will find it easier and the other one harder to hold his own in competition.

(6) Is the German workingman better satisfied owing to the accident insurance system?

Workers Feel
Secure in
Their Rights

The workmen are never satisfied; they are always trying to get more. That is human nature. At any rate, if they are dissatisfied with the compensation given to them, their anger is no longer directed against their employer but against those who have fixed the compensation. On the whole, it has been my experience that since the adoption of the accident insurance law the workman banks on his right to compensation just the same as he does on any other right given to him by the state.

(7) Did the accident insurance system strengthen or diminish trade unions?

I do not believe that the system has affected trade unions one way or the other. If the accident insurance law did not exist and if

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the former method of dealing with the results of accidents were still in vogue, the growth of trade unions would undoubtedly have been greatly accelerated.

(8) What is the social result of the German Accident Compensation Insurance and Accident Prevention System?

My answer to this is already partly contained in my previous remarks. The workman knows that he is protected (at least to a certain extent) against the consequences of accidents, and, like the man whose house is insured, he does not worry but sleeps calmly, with the certainty that if he should meet with an accident his family will not suffer want. Like Having One's House Insured

(9) Is the workman's contribution to the accident insurance benefits (through the compensation taken out of the Sick Fund during the first thirteen weeks) of much importance?

The Employers' Associations frequently begin to look after injured men even before the expiration of the first thirteen weeks if they think that in this way a cure will be more quickly effected than otherwise. This alone proves that the workman's contribution is not considered of prime importance by the employers. This contribution during the first thirteen weeks does not amount to a great deal at best, and is out of all proportion to the benefits as a whole. Workers' Contribution Negligible Quantity

(10) Has simulation been diminished?

By no means. Simulation will continue to exist as heretofore, no matter whether the workmen contribute to the cost of the insurance or not. The man who simulates does not stop to ask himself whether, by doing so, he hurts his fellow workers' interests or not. All he cares about is to get all he can for himself, regardless of any body else. No Remedy for Simulation

(11) Would you advise increasing the workmen's contribution or would you eliminate it altogether?

Neither I nor any of the other manufacturers I know attach prime importance to the workmen's contribution. By letting the workmen increase their contribution, you give them the right to have their say in the management of the Employers' Association. The present suc-

Workers'
Voice in
Management
Undesirable

cess of these associations is based upon their not having to deal directly with the workmen. The latter are represented in the Court of Arbitration and in the Tribunal of the Imperial Insurance Office, and have no legal fees to pay, so that their rights are fully protected, but, on the other hand, the Employers' Associations are absolutely unhampered and, therefore, in a position to produce splendid results. If the workmen had a voice in the management of the Employers' Associations disputes and differences of opinion would never cease. That is the reason why I attach little value to the workmen's contribution.

(12) Is it of any interest to industrial employers to have agriculture share in a national accident insurance system?

Agriculture
Should be a
Part of
System

In Germany the interests of agriculture and industry, unfortunately, are widely divergent and the course taken by the representatives of agriculture gives us just cause for complaint. Obligations similar to those imposed on the industrial interests of a country should certainly be placed upon agriculture. The more uniformly such a system operates, the greater is its success.

(13) Do other employers share your opinion on the above subject to any great extent?

In our association there is but one opinion concerning the above questions. I can say, without fear of contradiction, that my fellow-members will readily endorse the remarks made by me if you ask them their opinion.

Yours truly,

(Signed) E. BLUM,

Chairman of the Board of Directors of the Northeastern Iron and Steel Employers' Association.

FRANKFORT-ON-THE-MAIN, September 7, 1910.

MR. FERDINAND C. SCHWEDTMAN,

Dear Sir:

Having just returned from a several weeks' trip, I beg to reply as follows to the questions asked in your favor of the 20th ult.

The German Accident Insurance System hits the nail squarely on the head in its fundamental principles, which sentiment, I am convinced, is shared by an overwhelming majority of the German employers who do not want any change beyond eliminating the clause compelling the Employers' Associations to accumulate excessive reserve funds. This clause which is contained in section 34 of the Industrial Accident Insurance Law of June 30, 1900, was unanimously protested against by the League of German Employers' Associations in its yearly convention, and the present bill for the New Imperial Insurance Regulations contemplates a substantial reduction of the reserve fund.

Hits the Nail
Squarely on
the Head

The question whether the German system has proven satisfactory from a business as well as from a humane point of view can be unreservedly answered in the affirmative. From the humane standpoint there cannot be any doubt that a system which insures workmen against the consequences of industrial accidents is a necessity, for accidents quite unexpectedly deprive the workman of his earning capacity and the family of its bread winner. Of all forms of insurance, this, from a humane point of view, is therefore the most urgent, and the German Accident Insurance System has solved the problem in a thoroughly satisfactory manner. Withal, German accident insurance legislation has also benefited German employers to an appreciable extent. Before the accident insurance system was established 25 years ago, the so-called Imperial Liability Law of 1871 compelled the employer to compensate workmen injured by accidents which occurred in his establishment and for which he himself or his authorized officers

Urgent Need
of Accident
Insurance

Private
Accident
Insurance
Expensive
and
Inefficient

or superintendents were to blame. At that time the employer was obliged, therefore, in order to protect himself against the claims for liability arising from such accidents, to take out liability insurance in private insurance companies, the premium on which was very high. If a workman was injured and the insurance company called upon for damages, it frequently became necessary to resort to legal measures to compel the company to fulfill its obligations, and the injured party was left without compensation of any kind for a long time. Now, all this has been changed by our accident compensation insurance system, which grants the workman the right to collect damages from the Employers' Association in connection with all accidents, except those caused *intentionally*. On the other hand, the workman is not entitled to obtain damages from his employer under any circumstances except where the employer caused the accident *intentionally*. Of course this system meant a considerable extra burden for the employers, who have to raise the entire cost of accident insurance themselves except for the thirteen weeks following the accident; this burden, generally speaking, is borne cheerfully and willingly by the German employers in consideration of the great benefits which the system affords to their workmen and of the necessity of such insurance from a humane standpoint. The chief value of German accident insurance legislation lies in the creation of so-called Employers' Associations who have to bear the burden of accident insurance. These Associations are self-governed bodies and organized according to industries. They have furnished the employers a motive to form large organizations which have proven valuable, not only from an economic point of view, but also as a means of counterbalancing the trade unions.

Value of
Employers'
Associations

To abolish the legal structure on which accident insurance rests is not to be thought of. By far the great majority of the German employers would be emphatically opposed to such a course, and, so far as I know, no one has ever made a suggestion to that end. Workmen's insurance—this statement, too, I make without the slightest fear of contradiction—is conceivable only as compulsory insurance, which distributes the burden uniformly among all employers and does not in-

Uniform
Distribution
of Burden
Prevents
Interference
with
Competition

terfere with competition. Whether accident insurance or any of the other forms of governmental insurance existing in Germany has made the workmen better satisfied is a subject concerning which opinion is divided. In view of the beneficial workings of our insurance laws and particularly of our accident insurance system with its high rates of compensation, the assumption that greater satisfaction must have been the result seems justified; at any rate it may be safely asserted that if this workmen's insurance had not been adopted dissatisfaction would have reached much greater proportions.

In like manner it may be claimed that the accident insurance laws, far from strengthening the workmen's organizations, have neutralized their influences.

The fact that our governmental accident insurance system has conferred great benefits on the workmen has been duly emphasized, but it should also be pointed out that both the rates and the period of compensation are much more liberal in connection with this form of insurance than they are for invalidity or sick insurance. This is not only justified by the fact, that, as above stated, industrial accidents result in a sudden unforeseen state of distress, but also because the workman in many cases, in view of his claims to compensation against the Employers' Association, is no longer able to collect from his employer the damages to which he was formerly entitled by virtue of the liability law if his employer or fellow-workers were to blame for the accident.

The workmen's contribution to the compensation paid for the consequences of accidents, based on the fact that the compensation is taken out of the Sick Funds during the first thirteen weeks after the accident, is of the utmost importance. At any rate, the great majority of the German employers are averse to any change in the present system, even though a few have advocated that the Employers' Associations pay all claims for damages right from the start, thus throwing the entire burden of this insurance on the employers' shoulders, as the Employers' Associations are financed entirely by their members.

Dissatisfac-
tion Pre-
vented

Trade
Unions'
Influence
Neutralized

Compensation
Liberal

Averse to
Changes in
System

The simulation frequently to be observed on the part of workmen injured by accidents is scarcely diminished by the practice of paying the compensation out of the Sick Funds during the first 13 weeks, as the injured parties presumably are hardly conscious of the fact that by contributing to the Sick Fund they also raise part of the cost of accident insurance. Furthermore, simulation, as a rule, is only met with after the treatment or cure is well under way.

Workers'
Contribution
Satisfactory

The question whether the workman's contribution to the cost of accident insurance should be increased or abolished entirely by letting the Employers' Associations take charge right after the accident occurs, is solely and simply a question of financial taxation, and the great majority of the German employers would take the stand that no change be made in the present system in this respect either.

Land-Flight
Checked by
Applying
System to
Agriculture

That governmental accident compensation insurance is also applied to agricultural workers is of the utmost importance both to industrial and to agricultural employers. It is not only right and proper that agricultural workers should share the benefits enjoyed by those engaged in industrial occupations, but this is also in the interests of the employers of farm help in that it checks the so-called land-flight and counteracts the scarcity of labor in the country districts. Finally, the industrial employer is likewise benefited, since in many instances agricultural and industrial plants are run in connection with each other and the Industrial Employers' Associations would have to pay compensation for many accidents which can now be charged to the Agricultural Employers' Associations.

The above views are substantially those of an overwhelming majority of German employers.

Yours truly,

(Signed) F. HENRICH

Chairman of the Brewers' and Maltsters' Association.

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BERLIN, August 23, 1910.

MR. FERDINAND C. SCHWEDTMAN,

Vice-President of the National Association of Manufacturers,
Hotel Bristol.

Dear Sir:

I duly received your favor of the 20th inst. and beg to answer the questions asked by you therein as follows:

(1) Do you like the German Accident Insurance System in its present form? Yes, I like it very well indeed.

(2) What changes would you suggest? None.

(3) Has the German system proven satisfactory from a business as well as from a humane point of view? It has proven satisfactory from both standpoints.

(4) If all the German accident laws could be cancelled, would you advise such a course? No, not under any circumstances.

(5) Is general insurance compulsion absolutely necessary in your opinion to insure the success of a national system? Yes, compulsory insurance is absolutely necessary.

(6) Is the German workman better satisfied in consequence of accident insurance? Yes, decidedly, because he knows that he and his family will be taken care of if he meets with an accident.

Worker
Knows He
is Protected

(7) Has the accident insurance system strengthened or weakened workmen's associations (trade unions)? I am unable to form an opinion on this point.

(8) What is the social consequence (among the workmen) of the German Accident Insurance System? The social conditions of the workmen have improved.

(9) Is the workman's contribution to the cost of accident insurance (on account of the compensation being taken out of the Sick Fund during the first 13 weeks) of great importance? Yes, because

the workman receives financial support immediately after the accident happens.

(10) Has simulation been decreased thereby? Yes, because the Sick Fund is supervised conscientiously by the workers.

Changes
Inadvisable

(11) Do you advise a larger contribution on the part of the workmen or do you advise against the workmen's contribution entirely? My advice is to leave things as they are.

(12) Is the farmer's share in a national accident insurance system of interest to the industrial employer? Yes.

(13) Is your opinion on the above points shared by many other employers? Yes.

Recommends
System to
Other
Countries

I wish to also add that all civilized countries throughout the world should endeavor to adopt accident compensation by insurance according to the German model so that the workmen may obtain an undisputed right to the payment of compensation when they meet with accidents in the course of their work.

Yours respectfully,

(Signed) FRANZ PEST,

Chairman of the North German Metal Trades' Employers' Association.

SCHWELM, September 14, 1910.

MR. F. C. SCHWEDTMAN,

Dear Sir:

It was impossible for me to reply ere this to your favor of the 20th ult., and I now beg to answer your various questions as follows:

Employers
Want to
Continue
System

The German Accident Insurance System, based as it is on self-governing Employers' Associations, has stood the test of time, and there is no desire on the part of the employers to do away with it, even if such a thing were possible. German employers have willingly assumed the financial burden laid upon them by the system and

cheerfully perform the work it necessitates. Full justice is guaranteed to the workmen by the German Compensation Insurance System, and the verdicts of the higher tribunals in cases that have been appealed prove the efficiency of the Employers' Associations and the fairness of their decisions. If an entirely new accident insurance system were planned, it is a question in my mind whether it would not be best to establish a certain limit beyond which the obligation to compensate would cease on the part of the employers. When the German Accident Insurance System was adopted, employers generally were under the impression that accidents causing minor injuries (such as the loss of a finger-joint, stiff finger joints, slight amputations, etc.) were not to result in the allowance of a pension. It was well known as far back as 25 years ago, and our experience since that time has confirmed it, that slight bodily injuries do not permanently impair a workman's earning capacity, but cease to handicap him after a few years' time when he has become used to them. The allowance of small pensions (10, 15 and 20 per cent.) in such cases was chiefly due to the manner in which the law was at first interpreted by the Imperial Insurance Office, but of late years this tribunal has taken the view that adaptation and familiarization play an important part in relieving the consequences of minor injuries and furnish the basis for eventually withdrawing or at least reducing the pension. If a country, therefore, proceeds to pass laws creating an accident insurance system, it should be carefully considered right at the start whether it would not be well to exclude from its benefits any and all accidents impairing the workmen's earning capacity less than possibly 20 per cent.

No Need of
Compensat-
ing for Minor
Accidents

If accident insurance is to be regulated by law, compulsory insurance of all persons employed commends itself as the best course to adopt. In this connection I wish to refer to the proceedings of the various International Workmen's Insurance Congresses, particularly the one held in Rome.

Compulsory
Insurance
Recommended

It would be difficult to answer the question whether accident compensation has resulted in making German workmen better satisfied; it

Workers'
Satisfaction
Repressed by
Social Demo-
cratic Party

is human nature to be dissatisfied with existing conditions, and the agitators among the workmen, particularly those belonging to the Social Democratic Party, see to it that whatever satisfaction is felt by the workmen does not appear on the surface but is repressed as much as possible. It is a fact, nevertheless, that workmen and their families who have received the benefits of accident insurance, have expressed their appreciation and gratitude in no uncertain terms. If the workmen were to vote on the question whether the system was to be continued or not, an overwhelming majority would undoubtedly vote in the affirmative.

Trade Unions
Only Slightly
Affected

Accident insurance has not strengthened trade unions to any extent worth mentioning. Its only effect has been to give them a new subject for discussion at their meetings and to lead to the creation of secretaryships for the special purpose of protecting the workmen's interests in connection with the accident insurance system. Financially, too, the trade unions have been benefited somewhat by virtue of the fact that the accident insurance system gives their injured members a legal claim to compensation.

No More
Damage
Suits

The chief value of the German Accident Insurance System, so far as the workmen are concerned, lies in the fact that it grants to them a clearly defined right to compensation if they meet with an accident, thus protecting them against the possibility of becoming paupers. Again, the bitterness of feeling which resulted from the lawsuits instituted to determine whether the employer or the workman was responsible for the accident, has become a thing of the past. And even if the suit was decided in the workman's favor, the chances were that he would not be able to collect his claims on account of limited resources on the employer's part—quite aside from the fact that during the trial he depended on outside help to make both ends meet.

The science of preventing accidents has been placed on a practical basis by the intelligent co-operation of employers and employes, and there has been a marked decrease in the number of accidents and the extent to which workmen have been injured by them.

The workmen's contribution to accident insurance, based as it is on the practice of paying the compensation out of the Sick Funds during the first thirteen weeks succeeding the accident, is of little importance financially but affects the practical workings of the system. As is well known, the consequences of the majority of accidents cease during the first thirteen weeks, and the Employers' Associations are, therefore, not burdened with a lot of work which, in the nature of things, would be out of all proportion to the actual amount of good done. Inasmuch as the workmen are represented to the same extent as the employers in the Courts of Arbitration and in the Tribunals of Appeal and also co-operate in an equal measure in preparing accident prevention devices, they should naturally also contribute something to the cost of accident insurance. Above everything else, as pointed out before, the fact should be taken into account that after a pension, no matter how small, has once been granted it is very difficult, if not impossible to stop or withdraw it, even if the conditions which led to its being allowed have ceased to exist. On the other hand, when he is being paid out of the Sick Fund, the workman knows that a temporary allowance is involved, whereas, if the Employers' Association were to pay him a compensation during the first thirteen weeks he would struggle tooth and nail against its being withdrawn after a while. The point I desire to bring out is that the important thing is not so much the amount contributed to accident insurance by the workmen but the way in which this contribution simplifies and facilitates the practical workings of the system.

Workmen's
Contribution
Simplifies
Practical
Workings of
System

It is of little consequence to industrial employers whether agriculture is made a part of the accident insurance system or not, but agriculture itself is vitally interested in the question, since the number of agricultural workers deserting the farm in favor of the factory will continue to increase as long as the benefits of accident compensation are not enjoyed by those engaged in agricultural occupations.

The above brief remarks, of course, do not attempt to deal exhaustively with the subject, but I believe that my views are shared by

a majority of the employers in my own line of industry and by many other manufacturers as well.

Yours truly,

(Signed) AUGUST STERNENBERG.

Chairman of the Linen Manufacturers' Association.

LEIPSIK, September 8, 1910.

MR. FERDINAND C. SCHWEDTMAN,

Berlin.

My dear Sir:

Your favor of August 20th was not answered ere this as the undersigned chairman to whom your letter was addressed personally only returned from a vacation a few days ago.

It is hoped that the replies to your questions will nevertheless reach you in time to be of some service to you.

We have nothing against the German Industrial Accident Compensation Insurance law in its present form and could hardly suggest any changes, as the law has proven very satisfactory both from a business and a humane point of view.

The continuance of the German Social laws, i. e. of sick insurance, accident insurance, old age and disability insurance, is desirable under all circumstances, as it gives the individual employer the assurance that his workers are protected in every way. It is a relief for him to know that an efficient and well financed organization will look after his sick and injured workmen and that he cannot be sued for damages or compensation. To accomplish this end, compulsory insurance is a necessary prerequisite.

That accident compensation insurance has made the German workman better satisfied cannot be asserted. Among the German

Individual
Employers
Relieved
of Responsi-
bility

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workers are many Social Democrats. One of the principal doctrines of the Social Democratic Party is the class struggle, which causes hatred and envy of the possessing class by the so-called propertyless or working class. On that account the workers will never be satisfied with the benefits they get, as that would be fatal to the progress and growth of the Social Democratic movement, and, therefore, against the interests of organized labor and its leaders, the latter being especially bent upon making the continuation of the class struggle their one object in life.

System
Fatal to
Socialistic
Doctrines

The German Accident Compensation Insurance law has not prevented the organization of trade unions. On the contrary many workmen's societies have been started, possibly not as the result of accident compensation insurance, but for other economic reasons.

The social effects of the German Accident Compensation Insurance and Accident Prevention System are quite peculiar. Workmen frequently exaggerate the results of small injuries in order to obtain accident pensions, and in this fight for pensions hysterics and simulation unfortunately have come to play an important part. The regulations so far adopted for the prevention of accidents are rigidly enforced, and statistics show that they have been fruitful of excellent results, although the workmen often dislike using the protective devices prescribed and at times become more than indifferent towards the operating hazards.

Accident Pre-
vention Mea-
sures Strictly
Enforced

The workmen's contribution is not without importance and comes to about 10 per cent. of the total pensions paid. We would like to see the contribution kept where it is, as it seems proper that the workers should contribute something to the burden. The workmen's contribution, however, does not affect simulation one way or the other.

The conditions existing in Germany create a community of interests between agriculture and industry, on which account agricultural as well as industrial workers are subject to compulsory insurance. These views are shared by the majority of the employers; for it can hardly be questioned that nearly all employers take the hu-

Community
of Interests
Between Ag-
riculture and
Industry

mane standpoint that the welfare of their workmen demands an accident compensation insurance system.

Hopes New
Bill Will Not
Become Law

As you are undoubtedly aware, there is now before the Reichstag a bill comprising new Imperial Insurance Regulations which carry with them several advantages for the workers and also some disadvantages for the employer, especially for the Employers' Associations, whose autonomy it is aimed to curtail by establishing government insurance offices to which the fixing of the compensation is to be transferred. It is hoped that this bill will not become law, all the more so as the establishment of the insurance offices planned would presumably cause a total expenditure of at least 30,000,000 marks, (\$7,500,000) not even the smallest fraction of which would raise the insurance benefits or bring about any material promotion of insurance in other directions.

Yours respectfully,

(Signed) FERDINAND KUNAD,

Chairman Saxe-Thuringian Iron & Steel Employers' Association.

AUGSBURG, September 1, 1910.

MR. FERDINAND C. SCHWEDTMAN,

Berlin, Germany.

My Dear Sir:

In compliance with your request of August 20th we beg to state the following:

The organization of Employers' Associations as prescribed by the German Accident Compensation Insurance law we consider an un-

qualified success. We could not suggest any change. Other forms of insurance, such as the Austrian Territorial system for instance, may offer certain advantages, but after all is said and done, we think the German system is by far the best. By separating the lines of industry, it is rendered possible to gain a better understanding of the injured party's economic and working conditions, to enforce the regulations for the prevention of accidents more effectively and to distribute the cost of the system more uniformly and fairly. These three things are the very basis of a successful Accident Compensation Insurance System. The German employers pay the greater part of the cost of the system out of their own pockets and contribute liberally to the workers' sick funds. No bureaucratic institution is entrusted with the administration of the German Accident Compensation Insurance Law, but the very factors which control the economic life of Germany are also responsible for the operation of our accident compensation insurance system. The Government's functions are merely those of supervision and examination. We would not be in favor of changing the system.

German System by Far the Best

On a Business Basis

We also consider that compulsory insurance is best. We are firmly convinced that the countries in which the system of voluntary or optional insurance still prevails will, in the course of time, change to the German system. Compulsory insurance at once becomes *general*, as is shown by the evolution of Accident Compensation Insurance in Germany. If you exclude agriculture you would intensify our "land-flight," by furnishing the agricultural workers an additional inducement to become factory employees.

Compulsory Versus Voluntary Insurance

Generally speaking, it must be admitted that the German workers are well satisfied with our Accident Compensation Insurance System; it is difficult to conceive what would be the condition of German workmen as a whole without such insurance. Certain it is that our workmen's insurance system has substantially raised the German workers' physical and mental level. The drawbacks of the system—pension mania and simulation—cannot be denied, but according to our experience, which extends over a good many years, these are not so seri-

ous as is claimed in some quarters and are not confined to compulsory insurance but also exist in connection with optional insurance. We are unable to say whether workmen's insurance has had a retarding or stimulating effect on the trades' union movement. We hope the above statements will be satisfactory and beg to remain

Yours very truly,

(Signed) RICHARD SCHUBER,

Chairman South German Textile Employers' Association.

MÜNCHEN-GLADBACH, September 5, 1910.

Dear Sir:

In reply to your favor of August 20th I beg to say that the following answers to your questions are based on my personal experience with our insurance laws:

System Has
Not Been
Surpassed

The German Accident Compensation Insurance System has not been surpassed by that of any other country so far as I know, but has become a model for others to copy. The question what changes might be suggested cannot be answered in a general way. The changes proposed by the government, which occupy the Reichstag at the present time, are being bitterly fought by the German Employers' Associations. Speaking from my own experience, I believe that the German system has stood the test both from a business and a humane point of view. No one who is familiar with the German Accident Compensation Insurance Laws and has come into actual touch with them would think of abolishing them. I consider compulsory insurance absolutely necessary to make a national system thoroughly successful. If the German workman has not become better satisfied since the adoption of the accident compensation insurance system, it cannot be the fault of the system which is primarily designed to protect and benefit the

Designed to
Protect and
Benefit
Workmen

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workers. Trade unions have steadily increased since the adoption of the system, but whether our accident compensation insurance laws or other conditions are responsible for this is difficult to say.

The social result of the German Accident Compensation Insurance and Accident Prevention System must necessarily be a substantial improvement of their material condition. The workmen's contribution through the sick fund during the 13 weeks' waiting time is very desirable and practical; whether it reduces simulation is something I would not like to say; it is not necessary, in my opinion, to increase the workmen's contribution. So far as the industrial employers are concerned, the application of our system to agriculture presumably has not much interest. I am justified in assuming that the above views are shared by many employers.

Material Improvement in Workers' Condition

Yours respectfully,

(Signed) CARL OTTO LANGEN,

Chairman of the Board of Directors of the Rhenisch-Westphalian Textile Employers' Association.

STATEMENT OF ROBERT SCHMIDT,
SOCIAL-DEMOCRATIC MEMBER OF REICHSTAG

BERLIN, August 20, 1910.

Accident compensation insurance as existing in Germany, comprises workmen in industry, trade and agriculture with the exception of a few occupations in which the operating danger is comparatively slight. This separation has led to many inconveniences, as the dividing line cannot always be clearly recognized. The workmen desire that this separation be done away with and that all persons employed enjoy the same protection with regard to operating hazards. By

Wants All Occupations Included in System

including all occupations in the system, the general cost of accident insurance compensation would be appreciably reduced, while all workers would enjoy the same rights in case of accidents.

The German Accident Compensation Insurance Laws go far beyond the principle of the civil law in that the claims for compensation are not made dependent on proving either the employer's or the workman's responsibility for the accident. Every operating accident is recognized as such in the sense of the accident compensation insurance laws. This fundamental principle gives the worker a right to compensation even if he himself contributed to the accident through carelessness or negligence. It must be acknowledged that humanitarian considerations were the guiding factors in eliminating this question of responsibility for the accident.

Acknowledges
Humanitarian
Side of
System

The German Accident Compensation Insurance Law creates compulsory organizations according to lines of industry and makes these the carriers of the insurance. Among the workers the opinion prevails that this division according to lines of industry is clumsy in operation and that the Austrian method based on territorial divisions is simpler and affords many advantages. Disputes frequently arise as to the Employers' Association to which a given occupation belongs. Aside from this, it happens that in composite industries several Employers' Associations carry the insurance or that occupations are assigned to an Employers' Association to which they do not belong at all. In its first bills relating to this subject, the German Government did not contemplate any division but recommended the establishment of a general insurance institution. The compensation paid to those injured by accidents is two-thirds of the damage suffered and is based upon the wages actually earned. Anything above 1500 marks (375 dollars) per annum, however, is only figured at one-third, so that the compensation does not even reach two-thirds of the actual damage in some cases. It is only in case of complete helplessness on the part of the injured party that the pension is increased to the full amount of the annual wages earned, subject to the limitation just mentioned. If the injuries caused by the accident prove fatal, the widow receives a pen-

Thinks
Austrian
System
Superior

Wants Com-
pensation
Raised

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sion amounting to 20 per cent of the annual wages earned by her husband, and a similar amount for each child, which, however, may be reduced, making the maximum income 60 per cent of the annual wages earned. If the deceased was the principal bread winner of his parents or grandparents, these are entitled to a "Survivors' Pension" unless the prior claims of the widow or children of the deceased have exhausted the compensation possibilities. The amounts of the incomes or pensions paid to parties injured by accidents are considered inadequate by the workers. Full compensation for the damage caused by the operating accident is asked.

Workers have no voice whatever in the original fixing of the compensation, which is left entirely to the Employers' Association, but they do form part of the tribunals of arbitration, to which compensation cases may be appealed free of charge. The intention to restrict this procedure and particularly not to permit all cases to go to the Imperial Insurance Office, the highest and final court of appeal in compensation disputes, is bitterly opposed by our workmen. It is felt that the decision of one tribunal in connection with these frequently very important cases is not sufficient, but that there should be an opportunity for another examination and verdict.

Does Not
Desire
Workers'
Present
Rights of
Appeal Cur-
tailed

The shortcomings of accident compensation insurance as the workers see them, have been intimated above. It is not necessary to take up questions of a subordinate nature.

(Signed) ROBERT SCHMIDT,

Social Democratic Member of the Reichstag.

BRANDENBURG, September 19, 1910.

MR. F. C. SCHWEDTMAN.

Dear Sir:

Your esteemed favor of the 20th ult. reached me with considerable delay, as I have been absent from home for quite some time. I now beg to say the following in answer to your questions concerning our accident insurance system:

Great Im-
provement
Over Em-
ployers'
Liability

The system, generally speaking, has proven very satisfactory for 25 years; neither does the new bill for the Imperial insurance regulations carry with it any substantial changes in accident insurance as existing to-day. Compulsory insurance is absolutely necessary to insure the success of a national system. Our present accident insurance law is a great improvement over the old employers' liability law and protects the workmen in a far more substantial manner, a fact which is universally acknowledged.

Socialists
Responsible
for Dissatis-
faction

The employers have acquiesced in bearing the burden of the system alone. The self-governing feature of the Employers' Associations has stood the test. That the workmen are frequently dissatisfied with the compensation allowed by the Employers' Associations and with their methods generally, is something for which the Social-Democratic agitators are responsible. The accident insurance law presumably has exerted no influence on the trade unions.

Practical
Value of
Workers'
Contribution

The economic condition of workmen injured by accidents has undoubtedly been improved. The contribution of the workmen by the payments being taken out of the sick funds during the first 13 weeks is of no importance financially, but this arrangement makes it easier to determine the extent to which the earning capacity has been impaired and renders simulation more difficult, besides enabling the injured party to secure payments immediately after the accident. It is therefore recommended that this arrangement be retained but the insig-

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nificant contribution of the workmen involved by it must not be raised. The separation of industrial from agricultural accident insurance, in my opinion, is in the interests of both, because the conditions are so different in each.

Accident prevention which the law requires from the Employers' Associations is of the utmost importance in diminishing the accidents which will always be connected with the operation of factories. Importance
of Accident
Prevention

The views expressed above presumably coincide with those held by most other manufacturers, although small employers frequently complain of the burdens which are imposed on them by accident insurance.

Hoping that these statements will be of some use to you, I beg to remain

Yours truly,

(Signed) O. METZENTHIN,

President of the Board of Directors of the North German Textile Employers' Association.

MAINZ, August 26, 1910.

MR. F. C. SCHWEDTMAN.

Dear Sir:

In compliance with your request of the 20th inst., I am very much pleased to state my views regarding the questions asked.

The German Accident Compensation Insurance System, in my opinion, has proven thoroughly satisfactory in its present form, both from a business and a humane point of view. I consider it absolutely necessary that this system and particularly the present organization which is based on self-governing Employers' Associations, be retained. No Need of
Changes There have been no developments of any kind to render changes of a fundamental nature necessary. I consider compulsory insurance a necessity if a national system of this kind is to succeed. The German Accident Compensation Insurance System has had no effect on trade

Belittles
Value of
Workers'
Contribution

unions in my opinion. That accident compensation insurance has exerted a beneficial social influence on the workers as a class cannot be doubted. Technically there is no such thing as a "workers' contribution" to accident compensation insurance; under the German system of social insurance the workers merely contribute to the sick funds, out of which the compensation for accidents is paid during the first 13 weeks. The contribution in question therefore is of little importance, so far as carrying the Accident Compensation Insurance Law into effect is concerned. Simulation could hardly be expected to diminish on account of the workers' contribution. It is of interest to the industrial employer to have agriculture form a part of the system.

Even if our social insurance legislation has so far found but little gratitude and appreciation on the part of the workmen, I nevertheless consider it the duty of our industries, commerce, trade and agriculture, to continue developing and improving the system in every way possible.

Yours respectfully,

(Signed) H. R. v. MAFFEL,

Chairman South German Iron and Steel Employers' Association.

THE GERMAN ACCIDENT INSURANCE SYSTEM

By MR. RÖTGER

Chairman of the Central Federation of German Industrialists

Employers'
Influence on
Original Ac-
cident Legis-
lation

As far back as 1879 the Central Federation of German Industrialists advocated, through one of its prominent members, Baron von Stumm-Halberg, the establishment of an old age and invalidity insurance system, and in 1880 a memorandum was submitted to Prince Bismarck by Louis Baaré, also a leading industrialist and a well-known member of the Federation, which was of far-reaching influence on the first government bill dealing with the subject of accident insur-

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ance. At the Central Federation's Committee meeting on January 30, 1881, this bill met with hearty approval and enthusiastic support.

In the Central Federation of German Industrialists and among manufacturers generally the conviction is felt that the German Accident Compensation Insurance System has proven beneficial, and that its fundamental principles are well conceived. After the system had been in operation for ten years, the supplementary bill introduced with reference to it gave rise to a discussion at the Committee meeting on the Central Federation, held on October 18, 1897, and the remarks made on that occasion by the late Mr. Jencke, a former president of the Central Federation and himself an expert on the subject, met with universal approval. His statement culminated in the conclusion that the fundamental principles of the law required no revision of any kind and that the opinion prevailed, both in industrial circles and outside of them, that of the three insurance laws the one relating to accident compensation insurance had proven the greatest success of all.

German
Manufac-
turers Have
Found Sys-
tem Beneficial

An Expert's
Opinion Ex-
pressed 14
Years Ago.

That is as true today as it was then. The industrialists willingly bear the financial burden of accident insurance and also do all the work connected with the operation of the system. They are very jealous, however, of their right to manage their own affairs, and justly so, for the self-governing feature of the Employers' Associations is of vital importance to the success of the accident insurance system.

Insist on
Self-Govern-
ment.

The good work done by the Employers' Associations is being recognized and appreciated everywhere, even outside of manufacturing circles.

Details, of course, cannot be gone into here. That some of the things found in the original law and in the subsequent amendments were not entirely approved by the German industrialists but even attacked and vigorously fought, where, in the opinion of the employing class, unwarranted demands were made, cannot cause surprise. Thus the excessive increase in the reserve funds called for by the supplementary bill of 1900 was opposed from the very start and, as a result, the new Imperial Insurance Regulation bill which is now pending, again relieves this condition.

APPENDIX

PART TWO

1. English Compensation Act of 1906.
2. Contracting Out Scheme of the Great Eastern Railway Company and Financial Operations of Same for Year Ending June 30, 1910.
3. Statements Made by Labor Union Officials and Employers Before Departmental Committee of 1904, Describing Effect of Act of 1897 upon Elderly and Defective Workmen.
4. Statement of Purpose and Operation of the Iron Trade Employers' Insurance Association by the Secretary, Mr. S. R. Gladwell, London, England.
5. Statistical Tables of Accidents of Employment During Years 1904 to 1909, Inclusive. Prepared by Department of Labor, Dominion of Canada.

I

WORKMEN'S COMPENSATION ACT, 1906

(6 Edw. VII. c. 58)

An Act to consolidate and amend the Law with respect to Compensation to Workmen for Injuries suffered in the course of their Employment. (21st December, 1906.)

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I

(1) If in any employment personal injury by accident arising out of and in the course of the employment is caused to a workman, his employer shall, subject as hereinafter mentioned, be liable to pay compensation in accordance with the First Schedule to this Act.

(2) Provided that

- (a) The employer shall not be liable under this Act in respect of any injury which does not disable the workman for a period of at least one week from earning full wages at the work at which he was employed.
- (b) When the injury was caused by the personal negligence or wilful act of the employer or of some person for whose act or default the employer is responsible, nothing in this Act shall affect any civil liability of the employer, but in that case the workman may, at his option, either claim compensation under this Act or take proceedings independently of this Act; but the

employer shall not be liable to pay compensation for injury to a workman by accident arising out of and in the course of the employment both independently of and also under this Act, and shall not be liable to any proceedings independently of this Act, except in case of such personal negligence or wilful act as aforesaid.

- (c) If it is proved that the injury to a workman is attributable to the serious and wilful misconduct of the workman, any compensation claimed in respect of that injury shall, unless the injury results in death or serious and permanent disablement, be disallowed.

(3) If any question arises in any proceedings under this Act as to the liability to pay compensation under this Act (including any question as to whether the person injured is a workman to whom this Act applies), or as to the amount or duration of compensation under this Act, the question, if not settled by agreement, shall, subject to the provisions of the First Schedule to this Act, be settled by arbitration, in accordance with the Second Schedule to this Act.

(4) If, within the time hereinafter in this Act limited for taking proceedings, an action is brought to recover damages independently of this Act for injury caused by any accident and is determined in such action that the injury is one for which the employer is not liable in such action, but that he would have been liable to pay compensation under the provisions of this Act, the action shall be dismissed; but the court in which the action is tried shall, if the plaintiff so choose, proceed to assess such compensation, but may deduct from such compensation all or part of the costs which, in its judgment, have been caused by the plaintiff bringing the action instead of proceeding under this Act. In any proceeding under this subsection, when the court assesses the compensation it shall give a certificate of the compensation it has awarded and the directions it has given as to the deduction for costs, and such certificate shall have the force and effect of an award under this Act.

(5) Nothing in this Act shall affect any proceeding for a fine under the enactments relating to mines, factories, or workshops, or the application of any such fine.

II

(1) Proceedings for the recovery under this Act of compensation for an injury shall not be maintainable unless notice of the accident has been given as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been made within six months from the occurrence of the accident causing the injury, or, in case of death, within six months from the time of death:

Provided always that

(a) the want of or any defect or inaccuracy in such notice shall not be a bar to the maintenance of such proceedings if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defence by the want, defect, or inaccuracy, or that such want, defect, or inaccuracy was occasioned by mistake, absence from the United Kingdom, or other reasonable cause; and

(b) the failure to make a claim within the period above specified shall not be a bar to the maintenance of such proceedings if it is found that the failure was occasioned by mistake, absence from the United Kingdom, or other reasonable cause.

(2) Notice in respect of an injury under this Act shall give the name and address of the person injured, and shall state in ordinary language, the cause of the injury and the date at which the accident happened, and shall be served on the employer, or, if there is more than one employer, upon one of such employers.

(3) The notice may be served by delivering the same at, or sending it by post in a registered letter addressed to, the residence or place of business of the person on whom it is to be served.

(4) Where the employer is a body of persons, corporate or unincorporate, the notice may also be served by delivering the same at, or by sending it by post in a registered letter addressed to, the employer at the office, or, if there be more than one office, any one of the offices of such body.

III

(1) If the Registrar of Friendly Societies, after taking steps to ascertain the views of the employer and workman, certifies that any scheme of compensation, benefit, or insurance for the workman of an employer in any employment, whether or not such scheme includes other employers and their workmen, provides scales of compensation not less favorable to the workmen and their dependants than the corresponding scales contained in this Act, and that, where the scheme provides for contributions by the workmen, the scheme confers benefits at least equivalent to those contributions, in addition to the benefits to which the workmen would have been entitled under this Act, and that a majority (to be ascertained by ballot) of the workmen to whom the scheme is applicable are in favor of such scheme, the employer may, whilst the certificate is in force, contract with any of his workmen that the provisions of the scheme shall be substituted for the provisions of this Act, and thereupon the employer shall be liable only in accordance with the scheme, but, save as aforesaid, this Act shall apply notwithstanding any contract to the contrary made after the commencement of this Act.

(2) The Registrar may give a certificate to expire at the end of a limited period of not less than five years, and may from time to time renew with or without modifications such a certificate to expire at the end of the period for which it is renewed.

(3) No scheme shall be certified which contains an obligation upon the workmen to join the scheme as a condition of their hiring, or which does not contain provisions enabling a workman to withdraw from the scheme.

(4) If complaint is made to the Registrar of Friendly Societies by or on behalf of the workmen of any employer that the benefits conferred by any scheme no longer conform to the conditions stated in subsection (1) of this section, or that the provisions of such scheme are being violated, or that the scheme is not being fairly administered, or that satisfactory reasons exist for revoking the certificate, the Registrar shall examine into the complaint, and, if satisfied that good cause exists for such complaint, shall, unless the cause of complaint is removed, revoke the certificate.

(5) When a certificate is revoked or expires, any moneys or securities held for the purpose of the scheme shall, after due provision has been made to discharge the liabilities already accrued, be distributed as may be arranged between the employer and workmen, or as may be determined by the Registrar of Friendly Societies in the event of a difference of opinion.

(6) Whenever a scheme has been certified as aforesaid, it shall be the duty of the employer to answer all such inquiries and to furnish all such accounts in regard to the scheme as may be made or required by the Registrar of Friendly Societies.

(7) The Chief Registrar of Friendly Societies shall include in his annual report the particulars of the proceedings of the Registrar under this Act.

(8) The Chief Registrar of Friendly Societies may make regulations for the purpose of carrying this section into effect.

IV

(1) Where any person (in this section referred to as the principal) in the course of or for the purposes of his trade or business, contracts with any other person (in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation under this Act which he would have been liable to

pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal, then, in the application of this Act references to the principal shall be substituted for the references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed:

Provided, that, where the contract relates to threshing, plowing, or other agricultural work, and the contractor provides and uses machinery driven by mechanical power for the purpose of such work, he and he alone shall be liable under this Act to pay compensation to any workman employed by him on such work.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the workman independently of this section, and all questions as to the right and amount of any such indemnity shall in default of agreement be settled by arbitration under this Act.

(3) Nothing in this section shall be construed as preventing a workman recovering compensation under this Act from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, or in, or about premises on which the principal has undertaken to execute the work or which are otherwise under his control or management.

V

(1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then, in the event of the employer becoming bankrupt, or making a composition or arrangement with his creditors, or if the employer is a company in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that

liability shall, notwithstanding anything in the enactments relating to bankruptcy and the winding up of companies, be transferred to and vest in the workmen, and upon any such transfers the insurer shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so however that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the bankruptcy or liquidation.

(3) There shall be included among the debts which under section one of the Preferential Payments in Bankruptcy Act, 1888, and section four of the Preferential Payments in Bankruptcy (Ireland) Act, 1889, are in the distribution of the property of a bankrupt and in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount, not exceeding in any individual case one hundred pounds, due in respect of any compensation the liability wherefore accrued before the date of the receiving order or the date of the commencement of the winding up, and those Acts and the Preferential Payments in Bankruptcy Amendment Act, 1897, shall have effect accordingly. Where the compensation is a weekly payment, the amount due in respect thereof shall, for the purposes of this provision, be taken to be the amount of the lump sum for which the weekly payment could, if redeemable, be redeemed if the employer made an application for that purpose under the First Schedule to this Act.

(4) In the case of the winding up of a company within the meaning of the Stannaries Act, 1887, such an amount as aforesaid, if the compensation is payable to a miner or the dependants of a miner, shall have a like priority as is conferred on wages of miners by section nine of that act, and that section shall have effect accordingly.

(5) The provisions of this section with respect to preferences and priorities shall not apply where the bankrupt or the company being wound up has entered into such a contract with insurers as aforesaid.

(6) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

VI

Where the injury for which compensation is payable under this act was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof:

- (1) The workman may take proceedings both against that person to recover damages and against any person liable to pay compensation under this act for such compensation, but shall not be entitled to recover both damages and compensation; and
- (2) If the workman has recovered compensation under this Act the person by whom the compensation was paid (and any person who has been called on to pay an indemnity under the section of this Act relating to sub-contracting) shall be entitled to be indemnified by the person so liable to pay damages as aforesaid, and all questions as to the right to and amount of any such indemnity shall, in default of agreement, be settled by action, or, by consent of the parties, by arbitration under this Act.

VII

(1) This Act shall apply to masters, seamen, and apprentices to the sea service and apprentices in the sea fishing service, provided that such persons are workmen within the meaning of this Act, and are members of the crew of any ship registered in the United Kingdom, or of any other British ship or vessel of which the owner, or (if there is more than one owner) the managing owner, or manager resides or has his principal place of business in the United Kingdom, subject to the following modifications:

- (a) The notice of accident and the claim for compensation may, except where the person injured is the master,

be served on the master of the ship as if he were the employer, but where the accident happened and the incapacity commenced on board the ship it shall not be necessary to give any notice of the accident;

- (b) In the case of the death of the master, seaman, or apprentice, the claim for compensation shall be made within six months after news of the death has been received by the claimant;
- (c) Where an injured master, seaman, or apprentice is discharged or left behind in a British possession or in a foreign country, depositions respecting the circumstances and nature of the injury may be taken by any judge or magistrate in the British possession, and by any British consular officer in the foreign country, and if so taken shall be transmitted by the person by whom they are taken to the Board of Trade, and such depositions or certified copies thereof shall in any proceedings for enforcing the claim be admissible in evidence as provided by sections six hundred and ninety-one and six hundred and ninety-five of the Merchant Shipping Act, 1894, and those sections shall apply accordingly;
- (d) In the case of the death of a master, seaman, or apprentice, leaving no dependants, no compensation shall be payable, if the owner of the ship is under the Merchant Shipping Act, 1894, liable to pay the expenses of the burial;
- (e) The weekly payment shall not be payable in respect of the period during which the owner of the ship is, under the Merchant Shipping Act, 1894, as amended by any subsequent enactment, or otherwise, liable to defray the expenses of maintenance of the injured master, seaman, or apprentice;

(f) Any sum payable by the way of compensation by the owner of a ship under this Act shall be paid in full notwithstanding anything in section five hundred and three of the Merchant Shipping Act, 1894, (which relates to the limitation of a ship owner's liability in certain cases of loss of life, injury or damage), but the limitation on the owner's liability imposed by that section shall apply to the amount recoverable by way of indemnity under the section of this Act relating to remedies both against employer and stranger as if the indemnity were damages for the loss of life or personal injury:

(g) Subsections (2) and (3) of section one hundred and seventy-four of the Merchant Shipping Act, 1894, (which relates to the recovery of wages or seamen lost with their ship), shall apply as respects proceedings for the recovery of compensation by dependants of masters, seamen, and apprentices lost with their ship as they apply with respect to proceedings for the recovery of wages due to seamen and apprentices; and proceedings for the recovery of compensation shall in such a case be maintainable if the claim is made within eighteen months of the date at which the ship is deemed to have been lost with all hands;

(2) This Act shall not apply to such members of the crew of a fishing vessel as are remunerated by shares in the profits or the gross earnings of the working of such vessel.

(3) This section shall extend to pilots to whom Part X of the Merchant Shipping Act, 1894, applies, as if a pilot when employed on any such ship as aforesaid were a seaman and a member of the crew.

VIII

(1) Where—

- (i) the certifying surgeon appointed under the Factory and Workshop Act, 1901, for the district in which a workman is employed certifies that the workman is suffering from a disease mentioned in the Third Schedule to this Act, and is thereby disabled from earning full wages at the work at which he was employed; or
- (ii) a workman is, in pursuance of any special rules or regulations made under the Factory and Workshop Act, 1901, suspended from his usual employment on account of having contracted any such disease; or
- (iii) the death of a workman is caused by any such disease; and the disease is due to the nature of any employment in which the workman was employed at any time within the twelve months previous to the date of the disablement or suspension, whether under one or more employers, he or his dependants shall be entitled to compensation under this Act as if the disease or such suspension as aforesaid were a personal injury by accident arising out of and in the course of that employment, subject to the following modifications;
 - (a) The disablement or suspension shall be treated as the happening of the accident;
 - (b) If it be proved that the workman has at the time of entering the employment wilfully and falsely represented himself in writing as not having previously suffered from the disease, compensation shall not be payable;
 - (c) The compensation shall be recoverable from the employer who last employed the workman during the

last twelve months in the employment to the nature of which the disease was due;

Provided that—

- (i) the workman or his dependants if so required shall furnish that employer with such information as to the names and addresses of all the other employers who employed him in the employment during the said twelve months as he or they may possess, and, if such information is not furnished, or is not sufficient to enable that employer to take proceedings under the next following proviso, that employer upon proving that the disease was not contracted whilst the workman was in his employment shall not be liable to pay compensation; and
- (ii) if that employer alleges that the disease was in fact contracted whilst the workman was in the employment of some other employer, and not whilst in his employment, he may join such other employer as a party to the arbitration, and if the allegation is proved that other employer shall be the employer from whom the compensation is to be recoverable; and
- (iii) if the disease is of such a nature as to be contracted by a gradual process, any other employers who during the said twelve months employed the workman in the employment to the nature of which the disease was due shall be liable to make to the employer from whom compensation is recoverable such contributions as, in default of agreement, may be determined in the arbitration under this Act for settling the amount of the compensation;
- (d) The amount of the compensation shall be calculated with reference to the earnings of the workman under

the employer from whom the compensation is recoverable;

(e) The employer to whom notice of the death, disablement, or suspension is to be given shall be the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due, and the notice may be given notwithstanding that the workman has voluntarily left his employment.

(f) If an employer or a workman is agreed by the action of a certifying or other surgeon in giving or refusing to give a certificate of disablement or in suspending or refusing to suspend a workman for the purposes of this section, the matter shall in accordance with regulations made by the Secretary of State be referred to a medical referee, whose decision shall be final.

(2) If the workman at or immediately before the date of the disablement or suspension was employed in any process mentioned in the second column of the Third Schedule to this Act, and the disease contracted is the disease in the first column of that schedule set opposite the description of the process, the disease, except where the certifying surgeon certifies that in his opinion the disease was not due to the nature of the employment, shall be deemed to have been due to the nature of that employment, unless the employer proves the contrary.

(3) The Secretary of State may make rules regulating the duties and fees of certifying and other surgeons (including dentists) under this section.

(4) For the purposes of this section the date of disablement shall be such date as the certifying surgeon certifies as the date on which the disablement commenced, or, if he is unable to certify such a date, the date on which the certificate is given: Provided that—

(a) Where the medical referee allows an appeal against a refusal by a certifying surgeon to give a certificate

of disablement, the date of disablement shall be such date as the medical referee may determine;

- (b) Where a workman dies without having obtained a certificate of disablement, or is at the time of death not in receipt of a weekly payment on account of disablement, it shall be the date of death.

(5) In such cases, and subject to such conditions as the Secretary of State may direct, a medical practitioner appointed by the Secretary of State for the purpose shall have the powers and duties of a certifying surgeon under this section, and this section shall be construed accordingly.

(6) The Secretary of State may make orders for extending the provisions of this section to other diseases and other processes, and to injuries due to the nature of any employment specified in the order not being injuries by accident, either without modification or subject to such modification as may be contained in the order.

(7) Where after inquiry held on the application of any employer or workman engaged in any industry to which this section applies, it appears that a mutual trade insurance company or society for insuring against the risks under this section has been established for the industry, and that a majority of the employers engaged in that industry are insured against such risks in the company or society and that the company or society consents, the Secretary of State may, by Provisional Order, require all employers in that industry to insure in the company or society upon such terms and under such conditions and subject to such exceptions as may be set forth in the Order. Where such a company or society has been established, but is confined to employers in any particular locality or of any particular class, the Secretary of State may for the purposes of this provision treat the industry, as carried on by employers in that locality or of that class, as a separate industry.

(8) A Provisional Order made under this section shall be of no force whatever unless and until it is confirmed by Parliament, and if,

while the Bill confirming any such Order is pending in either House of Parliament, a petition is presented against the Order, the Bill may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of Private Bills, and any Act confirming any Provisional Order under this section may be repealed, altered, or amended by a Provisional Order made and confirmed in like manner.

(9) Any expenses incurred by the Secretary of State in respect of any such Order, Provisional Order, or confirming Bill shall be defrayed out of moneys provided by Parliament.

(10) Nothing in this section shall affect the rights of a workman to recover compensation in respect of a disease to which this section does not apply, if the disease is a personal injury by accident within the meaning of this Act.

IX

(1) This Act shall not apply to persons in the naval or military service of the Crown, but otherwise shall apply to workmen employed by or under the Crown to whom this Act would apply if the employer were a private person:

Provided that in the case of a person employed in the private service of the Crown, the head of that department of the Royal Household in which he was employed at the time of the accident shall be deemed to be his employer.

(2) The Treasury may, by a warrant laid before Parliament, modify for the purposes of this Act their warrant made under section one of the Superannuation Act, 1887, and notwithstanding anything in that Act, or any such warrant, may frame schemes with a view to their being certified by the Registrar of Friendly Societies under this Act.

rate and the legal personal representative of a deceased employer, and where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this Act, be deemed to continue to be the employer of the workman whilst he is working for that other person;

"Workman" does not include any person employed otherwise than by way of manual labor whose remuneration exceeds two hundred and fifty pounds a year, or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business, or a member of a police force, or an out-worker, or a member of the employer's family dwelling in his house, but, save as aforesaid, means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labor, clerical work, or otherwise, and whether the contract is expressed or implied, or oral or in writing;

Any reference to a workman who has been injured shall, where the workman is dead, include a reference to his legal personal representative or to his dependants or other persons to whom or for whose benefit compensation is payable;

"Dependants" means such of the members of the workman's family as were wholly or in part dependent upon the earnings of the workman at the time of his death, or would but for the incapacity due to the accident have been so dependent, and where the workman, being the parent or grandparent of an illegitimate child, leaves such a child so dependent upon his earnings, or, being an illegitimate child, leaves a parent or grandparent so dependent upon his earnings, shall include such an illegitimate child and parent or grandparent respectively.

"Members of a family" means wife or husband, father, mother, grandfather, grandmother, step-father, step-mother, son daughter, grandson, grand-daughter, step-son, step-daughter, brother, sister, half-brother, half-sister;

"Ship," "vessel," "seaman," and "port" have the same meaning as in the Merchant Shipping Act, 1894;

"Manager," in relation to a ship, means the ship's husband or other person to whom the management of the ship is entrusted by or on behalf of the owner;

"Police force" means a police force to which the Police Act, 1890, or the Police (Scotland) Act, 1890, applies, The City of London Police Force, The Royal Irish Constabulary, and The Dublin Metropolitan Police Force;

"Outworker" means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale, in his own home or on other premises not under the control or management of the person who gave out the materials or articles.

The exercise and performance of the powers and duties of a local or other public authority shall, for the purposes of this Act be treated as the trade or business of the authority;

"County Court," "judge of the county court," "registrar of the county court," "plaintiff," and "rules of court," as respects Scotland, means respectively sheriff court, sheriff, sheriff clerk, pursuer, and act of sederunt.

XIV

In Scotland, where a workman raises an action against his employer independently of this Act in respect of any injury caused by accident arising out of and in the course of the employment, the action, if raised in the sheriff court and concluding for damages under the Employers' Liability Act, 1880, or alternatively at common law or under the Employers' Liability Act, 1880, shall, notwithstanding any-

thing contained in that Act, not be removed under that Act or otherwise to the Court of Sessions, nor shall it be appealed to that court otherwise than by appeal on a question of law; and for the purposes of such appeal the provisions of the Second Schedule to this Act in regard to an appeal from the decision of the sheriff on any question of law determined by him as arbitrator under this Act shall apply.

XV

(1) Any contract (other than a contract substituting the provision of a scheme certified under the Workmen's Compensation Act, 1897, for the provisions of that Act) existing at the commencement of this Act, whereby a workman relinquishes any right to compensation from the employer for personal injury arising out of and in the course of his employment, shall not, for the purposes of this Act, be deemed to continue after the time at which the workman's contract of service would determine if notice of the determination thereof were given at the commencement of this Act.

(2) Every scheme under the Workmen's Compensation Act, 1897, in force at the commencement of this Act shall, if re-certified by the Registrar of Friendly Societies, have effect as if it were a scheme under this Act.

(3) The Registrar shall re-certify any such scheme if it is proposed to his satisfaction that the scheme conforms, or has been so modified as to conform, with the provisions of this Act as to schemes.

(4) If any such scheme has not been so re-certified before the expiration from the commencement of this Act, the certificate shall be revoked.

XVI

(1) This Act shall come into operation on the first day of July, nineteen hundred and seven, but, except so far as it relates to references to medical referees, and proceedings consequential thereon, shall not apply in any case where the accident happened before the commencement of this Act.

WORKMEN'S COMPENSATION ACT, 1906 351

(2) The Workmen's Compensation Acts, 1897 and 1900, are hereby repealed, but shall continue to apply to cases where the accident happened before the commencement of this Act, except to the extent to which this Act applies to those cases.

XVII

This Act may be cited as the Workmen's Compensation Act, 1906.



II

SCHEME ESTABLISHED IN SUBSTITUTION FOR THE PROVISIONS OF THE WORKMEN'S COMPENSATION ACT, 1906, BY THE GREAT EASTERN RAILWAY COMPANY

The Great Eastern Railway Accident Fund (hereinafter called "the Fund") shall be managed by a committee (hereinafter called "the Committee") consisting of the chairman of the Great Eastern Railway Company (hereinafter called "the Company") the deputy chairman, the chairman of the Finance Committee, the general manager and the secretary of the Company and one other officer to be appointed from time to time by the Board of Directors of the Company, and five servants of the Company, being members of the Fund (hereinafter called "the elective members"), two of whom shall be elected by the delegates of the Great Eastern Railway New Pension Fund from among their number, one by and from the delegates of the Great Eastern Railway New Pension Supplemental Fund, one by and from the committee of management of the Great Eastern Railway Provident Society, and one by and from the committee of management of the Great Eastern Railway Employees' Sick and Orphan Society, and in accordance with rules (not inconsistent with the terms of this scheme hereinafter called "the Scheme") to be from time to time framed by the committee. Six members of the committee shall be a quorum.

The Committee may appoint a secretary and any medical and other officers they may deem necessary who shall be subject to removal at their discretion and may fix the salaries of any such secretary, medical and other officers and such salaries together with the cost of stationery, printing, postages and clerical aid required for the purposes of the Fund shall be paid as to two-thirds thereof out of the revenues of the Company and as to the remaining one-third thereof out of the contributions of the members.

Any servant of the Company (whether employed by them solely or jointly with any other Railway Company if appointed by the Great Eastern Company) shall be entitled to become a member of the Fund upon making application for the purpose. It shall not be compulsory upon any servant to join the Fund. Any member thereof may at his discretion withdraw from membership at any time upon giving seven days' notice in writing to the secretary of the Fund. Provided that upon the expiration of such notice the member so withdrawing shall cease to have any claim or interest in the Fund or to be entitled to any benefit therefrom or thereunder in respect of any injury sustained after such expiration and shall have no claim with regard to any contributions which he has made to the Fund or with regard to any distribution of the Fund or to participate in any balance thereof.

The contributions payable to the Fund shall be as follows:—

- I. By each member 1d. per week to be deducted from his wages (a part of a week to count as a whole week).
- II. By the Company out of their own revenues the following amounts, viz.:—
 - (1) The full amount payable under Clause (A) set forth below in case of death.
 - (2) In case of total incapacity a sum equivalent to a weekly payment during the incapacity not exceeding 50 per cent. of the weekly earnings of the member, such weekly payment not to exceed £1 or any increased weekly payments (not to exceed £1) which may be made on review by the Committee. Provided that

(a.) If the total incapacity lasts less than two weeks no amount shall be payable in respect of the first week and

(b.) As regards the weekly payments during total incapacity of a member who is under 21 years of age at the date of the injury and whose weekly earnings are less than 20 shillings, 100 per cent. shall be substituted for 50 per cent. of his weekly earnings but the weekly payment shall in no case exceed 10 shillings.

(3) In case of partial incapacity the amount payable as set forth below under Clause (C) or Clause (D) (3).

Provided further that after the payment of a weekly sum for a period of six months as hereinafter mentioned, if the weekly payment shall be commuted by the payment of a lump sum, the amount payable by the Company to the Fund shall be such lump sum.

FURTHERMORE, if the moneys of the Fund be found insufficient, the Company guarantees the payment of every allowance payable under the Scheme, but if at the end of five and one-half years from the date from which the Scheme comes into operation or if the Registrar of Friendly Societies shall have in the meantime renewed his Certificate to the Scheme in the manner provided by section 3, sub-section (2) of the Workmen's Compensation Act, 1906, then at the expiration of the period or periods for which the Certificate to the Scheme shall then or from time to time be so re-certified or if upon any revocation of the certificate to the Scheme there shall be a balance standing to the credit of the Fund after due provision has been made to discharge the liabilities of the Fund, such balance shall be distributed or applied to such purpose and in such manner as may be agreed between the Board of Directors of the Company and the elective members of the committee, or, in default of agreement, as may be determined by the Registrar of Friendly Societies.

The allowances to be paid out of the Fund shall be as follows:—

(A) In case of the death of a member through an injury arising out of and in the course of his duties in the Company's service there shall be paid:

- (1) If the member leaves any dependants wholly dependent upon his earnings at the time of his death, a sum equal to his earnings in the employment of the Company as aforesaid during the three years next preceding the injury, or the sum of £150, whichever of those sums is the larger but not exceeding in any case £300, and if the period of the member's employment by the Company as aforesaid has been less than the said three years then the amount of his earnings during the said three years shall (subject to the aforesaid maximum of £300) be deemed to be 156 times his average weekly earnings during the period of his actual employment under the Company. Provided that the amount of any payments made to the member under Clauses (B) (C) or (D) below in respect of such injury shall be deducted from such sum.
 - (2) If the member does not leave any such dependants but leaves any dependants in part dependent upon his earnings, at the time of his death, such sum not exceeding in any case the amount payable under the foregoing provisions as may be agreed upon, or in default of agreement as may be determined by the committee to be reasonable and proportionate to the injury to the said dependants.
 - (3) If, however, the member leaves no dependants, the reasonable expenses of his medical attendance and burial not exceeding £10 shall be paid.
- (B) In case of total incapacity through an injury arising out of and in the course of a member's duties in the Company's service, there shall be paid to the member so long as such incapacity shall continue, commencing from the date of such incapacity but not for a longer period than six months, a weekly sum equal to his weekly earnings, such weekly sum not to exceed £1.
- (C) In case of partial incapacity through an injury arising out of and in the course of a member's duties in the Company's service, there shall be paid to the member so long as such partial incapacity

shall continue, commencing from the date of such partial incapacity, such a weekly sum not exceeding 50 per cent. of the weekly earnings of the member (not exceeding £1) as the Committee in their absolute discretion may determine. Provided that in fixing the amount of such last-mentioned sum regard shall be had to any wages, payment, allowance or benefit which the member may receive, during the period of his partial incapacity, from the Company or any other employer and such weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the member before the accident and the average weekly amount which he is earning or is able to earn in some suitable employment or business after the accident but shall bear such relation to the amount of that difference as under the circumstances of the case may appear to the committee to be proper.

(D) After the payment of weekly allowance for the period of six months there shall in respect of total or partial incapacity be paid to the member:

(1) Such a lump sum as may be agreed between himself and the committee (subject to the approval of the Board of Directors of the Company).

Failing such agreement there shall be paid:

(2) During total incapacity an amount equal to one-half of the member's weekly earnings, not exceeding £1 (except in the case of a member who is under 21 years of age at the date of the injury and whose average weekly earnings are less than 20s., when the whole of such weekly earnings shall be substituted for one-half, but in this case no weekly payment shall exceed 10s.).

(3) During partial incapacity such weekly sum as may be payable to the member under Clause (C) above set forth.

(4) The directors of the Company may at their option at any time require the committee to redeem any weekly payment by the payment of a lump sum of such an amount as, where

the incapacity is permanent, would, if invested in the purchase of an immediate life annuity from the National Commissioners through the Post Office Savings Bank, purchase an annuity equal to 75 per cent. of the annuity of the said weekly payment.

In the construction of the Scheme—

The expression "weekly earnings" means one-half of the earnings of a member during the 14 days next previous to the date of the injury exclusive of expenses or similar payments. That such earnings shall not be less than the weekly wages of a member as recorded in the staff books of the Company or as recorded and in the case of casual laborers shall be deemed the same weekly amount as the wages of other laborers of the Company in a similar grade of employment.

The expression "dependants" means such members of the family of a member as were wholly or in part dependent upon the earnings of the member at the time of his death or would but for the incapacity due to the accident have been so dependent on the earnings of the member being the parent or grandparent of an illegitimate child or a member who leaves such a child so dependent upon his earnings or an illegitimate child leaves a parent or grandparent so dependent on his earnings, shall include such an illegitimate child and parent or grandparent respectively.

Any weekly payment under the Scheme may be reviewed by a committee at the request either of the Board of Directors of the Company or of the member, and on such review may be diminished or increased, subject to the before mentioned provisions. Provided that where the member was at the date of the accident under 21 years of age and the review takes place more than 12 months after the accident the amount of the weekly payment may be increased to any amount not exceeding 50 per cent. of the weekly payment which the member would probably have been earning at the date of the review if he had remained uninjured, but not in any case exceeding £1.

An allowance weekly payment or a sum paid by way of redemption thereof under the Scheme shall not be capable of being assigned, charged or attached and shall not pass to any other person by operation of law nor shall any claim be set off against the same.

If in the opinion of the committee an injury sustained by a member is attributable to serious and wilful misconduct on his part, any compensation claimed in respect of that injury shall, unless the injury results in death or serious and permanent incapacity, be disallowed.

It shall be within the discretion of the committee to decide whether or not a member shall be entitled to the payment of an allowance in respect of any previous injury he may have sustained if after sustaining the injury he has continued or resumed work for a period of one month.

The committee shall be entitled if they think fit to withhold any allowance or continued allowance if the member shall refuse to submit himself for examination by a duly qualified medical practitioner when and so often as the committee may require.

The committee shall be at liberty, in their discretion, to pay any death allowance either to the legal personal representative of a deceased member or to any person to whom he may have bequeathed the same by will or codicil or to dependants of his. And in the last-mentioned case, notwithstanding that the deceased member may have a personal representative or may by will or codicil have bequeathed the allowance, when any allowance has once been paid to a person to whom the committee have thought fit to pay the same, neither the committee nor the Fund nor the Company nor any other Railway Company who are joint undertakers with the Company, shall be liable to any further claim in respect of the injury on account of which such allowance was paid.

The committee may, if they think fit, invest in such manner as they may decide, any moneys payable to minors during the minority of such minors and may apply any such moneys or the proceeds thereof for the benefit of such minors in such manner as they think fit.

Any question with regard to what is an injury within the meaning of that term as used in the Scheme, as to who are dependants, as to which dependants are entitled to receive payments due from the Fund, and the amount or amounts of such payments, shall be determined by the committee.

If any question (other than such as the committee or the Board of Directors of the Company are hereby expressly empowered to decide) shall arise with respect to the Scheme or the right to alter the amount or duration of an allowance thereunder or with respect to the construction or meaning of the Scheme or the rules framed in connection therewith or any variation or alteration thereof respectively, such question shall be settled by the committee whose decision shall be final and conclusive.

**RULES MADE BY THE COMMITTEE MENTIONED IN THE
FOREGOING SCHEME FOR THE MANAGEMENT OF THE
GREAT EASTERN RAILWAY ACCIDENT FUND**

DEFINITIONS

1. In the interpretation of these rules the following words and expressions shall have the following meanings unless excluded by the context:—

“The Fund” shall mean the Great Eastern Railway Accident Fund.

“The Scheme” shall mean the foregoing Scheme.

“The Company” shall mean the Great Eastern Railway Company.

“Servant” shall mean any servant of the Company, whether employed by them solely or jointly with any other Railway Company, if appointed by the Company.

“Dependants” shall mean such members of the member's family as were wholly or in part dependent upon the earnings of the member at the time of his death or would but for the incapacity due to the accident have been so dependent and, where the member being the parent or grandparent of an illegitimate child leaves such a child so dependent upon his earnings or being an illegitimate child leaves a parent or grandparent so dependent upon his earnings, shall include such an illegitimate child and parent and grandparent respectively.

“Member of a Family” shall mean wife or husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister.

“Allowance” shall mean and include every payment provided by the Scheme to be made to any member of the Fund or his representatives or dependants.

“The Committee” shall mean the committee for the time being acting in the management of the Fund.

“Elective Member of the Committee” shall mean any one of the five servants of the Company being members of the Fund, elected as in the Scheme mentioned.

"Month" shall mean calendar month.

"Secretary" shall mean the secretary for the time being of the Fund.

Words importing the singular number shall include the plural number and vice versa, and words importing the masculine gender shall include the feminine gender.

OFFICE OF THE FUND

2. The office of the Fund shall be at Liverpool Street Station or at such other place as may from time to time be substituted therefor by the committee.

MEMBERS

3. Every servant who desires to become a member shall testify his desire by signing and forwarding to the secretary an application in the form printed at the foot of these rules or in such other manner as the committee may from time to time authorize or require. Upon so testifying his desire the servant shall become a member and his contribution of one penny per week to the Fund to be deducted from his wages according to the Scheme shall immediately commence. Every person becoming a member shall be entitled to receive free of charge a copy of the Scheme and of these rules or other, the rules of the Fund for the time being in force.

MANAGEMENT

4. The Fund shall be managed by the committee composed as mentioned in the Scheme.

5. Every elective member of the committee (hereinbefore defined) shall cease to hold office at the end of two years from the date of his election or on his sooner ceasing to be one of the body whether delegates or committee by which he is elected but shall be eligible for re-election. On the retirement or in case of the death,

resignation or incapacity of any elective member of the committee, the body by which he is elected shall elect one of its members in his place but the person so elected to fill a vacancy caused by death, voluntary resignation or incapacity shall hold office only so long as the person in whose place he is appointed would have continued to hold it. A retiring elective member of the committee shall be eligible for re-election.

6. The continuing members for the time being of the committee may act notwithstanding any casual vacancy in their body and notwithstanding any omission to fill up a vacancy caused by the retirement, death, resignation or incapacity of an elective member.

7. The chairman for the time being of the Company and in his absence the deputy chairman and in the absence of both, one of the members of the committee present to be chosen by those present, shall act as chairman of each or any meeting of the committee.

8. The committee may meet as they think fit. Six members shall be a quorum and questions arising at any meeting shall be decided by a majority of the members of the committee present. If the chairman of the Company be chairman of the meeting he shall not vote unless there be an equality of votes of the other members present, in which case he shall have a casting vote. Any other person who may be chairman of the meeting may vote and in case of an equality of votes he shall also have a second or casting vote. Any three members of the committee of whom one at least shall be a non-elective member may at any time call a meeting of the committee.

POWERS OF THE COMMITTEE

9. Before payment of any allowance the committee shall be entitled to call for and be furnished with such information and particulars as in their discretion they may think necessary to establish the validity of the claim.

10. Notice in writing of any accident shall be given as soon as practicable after the happening thereof and, if reasonably possible, through the station master, foreman, or person in authority under whom the member immediately works, to the secretary.

Any such notice and any claim for compensation made as a result of the accident must comply with section 2 of the Workmen's Compensation Act 1906, and will be dealt with by the committee in accordance with that section.

11. When notice has been given of an injury to a member, the member shall, if and so often as may be required by the committee, submit himself for examination by a duly qualified medical practitioner as provided in the Scheme.

CUSTODY OF MONEYS OF THE FUND

12. The moneys of the Fund shall remain in the hands of the Company for the purposes of the Fund and the Company shall be accountable to the Fund for the same.

ACCOUNTS

13. Accounts of the Fund shall be kept by the secretary and shall be open to the inspection of the members at all reasonable times and the Company shall cause such accounts to be audited up to the 30th day of June, 1909, and up to 30th day of June in each succeeding year by their chief accountant for the time being and a copy of the accounts as so audited shall be sent to every member accompanied by a copy of any such report upon the Fund as the committee may consider necessary.

ALTERATION OF RULES

14. The committee shall have power from time to time to alter, vary, modify, revoke, rescind or add to these rules or other, the rules

for the time being of the Fund, but no alteration shall be made which is inconsistent with or would render the rules inconsistent with the Scheme.

15. These rules shall come in operation as on and from the 1st day of July, 1909.

16. If and so far as any of these rules is inconsistent with the Scheme such rule shall be of no force or effect.

Form of Application for Membership

GREAT EASTERN RAILWAY ACCIDENT FUND

Department

Station

Date

To the Great Eastern Railway Company,

I desire to become a member of the Great Eastern Railway Accident Fund upon the terms of the Scheme certified by the Registrar of Friendly Societies and I authorize the deduction from my wages of one penny per week as my contribution to the said Fund and I agree with the Great Eastern Railway Company as follows:—

- (a) That the provisions of the said Scheme shall be substituted for the provisions of the Workmen's Compensation Act 1906 as regards any claims which I or any persons claiming under me or my dependants may have for compensation under the said Act.
- (b) That in any case in which I, or persons claiming under me, make any claim under or by reason of the provisions of the Employers' Liability Act 1880 or any Act or Acts amending the same or at common law, I will accept the contribution agreed to be made by the Railway Company under the said Scheme and any compensation or provision which may be allotted to me under the said Scheme in satisfaction of any

ACCIDENT PREVENTION AND RELIEF

such claim so made by me or persons claiming under me as
aforesaid.

Signature

Check No.....

Occupation

Residence

Witness to Signature—

I agree on behalf of the Great Eastern Railway Company.

Signed

Station Master, Foreman, or person in authority, under whom the
proposed member immediately works.

REPORT OF THE MANAGING COMMITTEE AND STATEMENT OF
ACCOUNTS

To 30th June, 1910

The Committee herewith submit to the Members of the Fund a
statement of the Accounts of the Fund for twelve months ending 30th
June, 1910.

During the year, the total number of claims was 3,164, including
16 in regard to accidents that terminated fatally.

The allowance due in respect of the 16 fatal accidents was paid as
follows:

In 11 cases to persons wholly dependent	£2,016	12	7
In 4 cases to persons partially dependent.....	102	0	0
In 1 case to persons non-dependent.....	10	0	0

There was also paid £56 9s. 10d. by weekly allowances.

The number of members on 30th June, 1910, was 29,152.

By order of the Committee, G. F. Thurston, Secretary.

GREAT EASTERN RAILWAY ACCIDENT FUND

Statement of Accounts Year ending 30th June, 1910

RECEIPTS	£	s.	d.
Balance 30th June, 1909.....	2,451	10	1
Contributions by Members	6,109	0	6
Contributions by Company on account of Fatal Accidents	2,185	2	5
Contributions by Company on account of total incapacity	7,554	8	0
Contributions by Company on account of partial in- capacity and commutations	225	16	7
	<u>£18,525</u>	<u>17</u>	<u>7</u>

DISBURSEMENTS

Amounts paid:—	£	s.	d.
On account of Weekly Allowance	11,899	15	11
On account of Fatal Accidents.....	2,185	2	5
On account of partial incapacity and commutations....	225	16	7
On account one-third of expenses of management....	380	0	11
By Balance	3,835	1	9
	<u>£18,525</u>	<u>17</u>	<u>7</u>

16th July, 1910.

Audited and found correct,

A. E. DOLDEN.



III

STATEMENTS MADE BEFORE DEPARTMENTAL COMMITTEE
1904, RESPECTING THE EFFECT OF THE ACT OF 1897,
UPON THE EMPLOYMENT OF ELDERLY
AND DEFECTIVE WORKMEN

MR. STEVENSON, Secretary of the United Builders' Labourers' Union, said, in answer to the question:

2612. You say here that the Act has operated unfavorably towards the old and weak?

Yes. Not only do I experience it in my own society, but as a member of a Board of Guardians as well, I am continually in contact with men who unfortunately have to seek the refuge of the "house." On inquiry being made, especially in certain work, it has been found that questions have been put to them with regard to their physical condition, especially since the House of Lords has given a decision that ordinary physical disability is not a bar to a man getting compensation, even though he may meet with an injury when it is known at the time that he is suffering from some disability. I find in those cases that the inquiries as to the physical conditions of the men are beginning to get more stringent.

MR. WILSON, M. P., Secretary of the Durham Miners' Association, sums up his views on this important question thus:

8546. I have no hesitation in saying that, this to me is one of the greatest dangers. It is an indirect influence that cannot be measured, because practical men will tell you, and I have no hesitation in saying it, that a very large number of these cases discharged would not have been discharged, had it not been for the Compensation Act. Now, in these times the Workmen's Compensation Act is beginning to tell, owing to our getting into bad times.

MR. CUMMINGS, of the Boiler Makers' and Iron and Steel Shipbuilders' Society, says:

But the great difficulty we have had to face just now in our trade is the disinclination, and in some cases the absolute refusal on the part of some insurance companies to accept any risk under any conditions whatever of men who have been maimed with the loss of a leg, arm, or eye. I am glad to say that the Iron Trade Employers' Insurance Company do not act as other insurance companies have done in this matter. It is a serious matter to us, because we have got many hundred one-eyed men. There are a tremendous lot of one-eyed men in our trade, as some portions of the work are exceedingly dangerous to the eyes. That has caused a discharge in certain directions of a quantity of one-eyed men. I came across one in Scotland last week who had been twenty-five years working for his employer with one eye, and now has had to be discharged, although he is just as fit now to do the work as ever. Where there is no sympathetic affection setting in from the loss of one eye it has been proved that a man is able to earn just as much at piece work—a system general with us—as he did before.

I should like to say that the injustice of the matter is marked, seeing that in a case in Scotland five one-eyed men were subpoenaed to give evidence stating their ability to work at their trade in order to prevent another man obtaining full compensation who had lost an eye. Now these men are being discharged. One employer I saw at Tyneside, who had insured with an insurance company which refused to accept any such risk, deplored the fact to me; he told me that even if he paid cent per cent they the (insurance company) would not accept any risk.

This is a copy of the exact clause: "It is hereby understood and agreed that this policy does not cover the risk of accident to six employees who are permanently disabled through the loss of an eye, and one employee who is permanently disabled through the loss of a leg." Five out of those six one-eyed men proved to be our people; among all the other trades there was only one who had lost an eye in that employment.

So Mr. BINNS, General Manager of the Midland Colliery Owners' Mutual Indemnity Company:

With regard to the employment of maimed persons, the Act has had great influence on this class of employment, because employers cannot afford the risk of setting on men who might, by some slight accident, become permanently incapacitated. A workman employed by one member of the association, within a few hours of the Act coming into force, had an eye destroyed. It was then found, for the first time, that his other eye had been, for some time, blind, and the man was thus incapacitated for life. Employers cannot afford the risk of taking on maimed men whom they might otherwise be very willing to take on.

Mr. TAYLOR, Secretary of the Cotton Trade Insurance Association, says:

It is only since July of this year that we have begun to take steps to dispense with people who are infirm or who have ailments. I gave instructions to stop a man who was only fifty years of age last week who was suffering from varicose veins in his legs. If this man by some means or other knocked a leg against some machinery in his mill he might easily bleed to death, and we should be liable for it. We are bound to stop these people. We have not taken any notice of it for the first few years, but now we are bound to take steps to stop it. During the next few years, if they are allowed to contract out, there will be a good many aged persons put out of work, and those who have any ailment or who are cripples. I have a man in my mind now who is blind of one eye—an overlooker in a mill. We shall certainly have to dispense with him before very long. I shall give instructions to dispense with him in the next week or two, and any-one I find of that description. There are a great many of these cases.

Mr. COPLEY, Secretary of the National Amalgamated Union of Enginemen of Great Britain, mentions a case where a shunter had his right leg taken off, and, after having been supplied with a cork leg, his employers offered him employment as locomotive driver at higher

wages than he had before, and he was employed in this capacity, being quite capable of doing the work, for two years.

Unfortunately the insurance company step in, and they refuse to be liable any longer for any compensation if he is kept in their employment. The firm, of course, approached him with the idea that he should contract out of the Act. He sought advice from me, and I said, according as I understood the Act, an individual person could not contract out of it, but the foreman told him that he could not go on in their employment any longer unless he did contract out of the Act. He got fourteen days' notice, and now he is practically on the street—with one leg and out of employment. At the time that he settled for commutation he got £150. Most of this was spent to build up his constitution, to get him right, and to buy him a cork leg in order to walk more easily. And now he is on the street with no income from anywhere.

IV

STATEMENT PREPARED BY MR. S. R. GLADWELL, SECRETARY THE IRON TRADES EMPLOYERS' INSURANCE AS- SOCIATION, LTD., OUTLINING PURPOSE AND OPERATION OF THAT ASSOCIATION

The Iron Trades Employers' Insurance Association, Ltd., is a mutual association of engineers and shipbuilders who are members of the Engineering and Shipbuilding Employers' Federation, and the Association is not allowed to take as members any firm which is not a member of such Federation. The Engineering and Shipbuilding Employers' Federation is an association of employers formed purely for the purpose of defense against workmen's unions. The aim of the Insurance Association, which is affiliated with the Federation, is to manage the workmen's compensation claims of the employers at the lowest possible cost consonant with humane and fair dealing with the workmen. It is by far the largest mutual society in this country undertaking employers' liability insurance, and its experience affords an exceptional means of estimating the risk with regard to an important class of trades. The premiums received during 1909 amounted to £145,000, and the claims were £115,000, or approximately 80 per cent of the premiums, while expenses were £14,000, or about 10 per cent of the premiums. The surplus on trading account for the year was nearly £15,000, or more than 10 per cent of the premiums. The small percentage of premiums absorbed in expenses is always a noticeable feature of the accounts and the members of the association, therefore, obtain protection as nearly at cost price as is practicable. Their experience during the last seven years is given in table on next page:

	Premiums. Received	Losses.	Expenses.	Percentage of Profit or Loss.
	£	£	£	
1903	72,834	62,856	9,580	+ 0.6
1904	77,382	73,183	9,955	— 7.3
1905	89,574	83,003	11,176	— 5.0
1906	116,376	121,422	11,079	—13.8
1907	121,544	111,607	11,576	— 1.3
1908 (18 mos.).....	244,925	210,996	20,107	+ 5.6
1909	144,045	115,439	13,842	+10.1
Totals	£866,680	£778,506	£87,315	+ 0.1

Totals, Losses and Expenses, £865,821

It will be observed that premiums and claims with working expenses practically balance. It should also be noted that a new Compensation Act came into force in July, 1907, considerably increasing the liability of employers and, consequently, the premiums. In that year the association issued provisional and experimental policies for six months, subsequently extending them for a further twelve months, so that the premiums received (£244,925) represent 18 months' work. How is this result effected?

Constant supervision of claims is exercised by inspectors who keep in touch with injured workmen. Continual efforts are made to improve the employers' risk by the issue of rules and regulations, guard notices, and various suggestions, all relating to the prevention of accidents. Great attention is paid to the provision of proper first aid treatment and periodically the doctors of the Association visit the works of each firm in order to see whether the first aid arrangements are in good order. The aim of the Association is not so much to have a small hospital in the works as to have at one or more points (depending on the size of the establishment) the simplest possible form of bandages, lotions, etc., which are perfectly aseptic and are kept in places to which dirt cannot have access. Ambulance classes are also encouraged in their works, and the necessity of perfect surgical cleanliness is insisted on at every possible opportunity. The antiquated method of obtaining merely a sick club doctor's report every month or two is slowly being abandoned, and the

newer and better practice of procuring the best possible medical treatment for the injured workman is gradually being adopted, the view being that if £100 must be spent it is better to give £75 to the doctor to thoroughly repair the human machine and make it fit for work again, giving the man £25 in weekly payments while he is being repaired rather than £90 to the workman as some miserable solatium for a permanent injury and £10 to the doctor for doing work which lack of time and opportunity prevented him doing effectively. In some districts a doctor is employed whose sole business it is to examine and treat every injured workman, the result being that although a larger number of claims are called into existence by the workman's attention being called, by the medical treatment, to the claim he has under the Workmen's Compensation Act, yet the time the workman is off work is so reduced that the cost per claim necessarily shows a considerable reduction.

Among the many thousands of cases dealt with every year by the Association there are a great number which are not bona fide and in which the workmen are undoubtedly malingerers and are exploiting the employers. When the inspectors of the Association come across such cases, they report to the head office through the branch office and, after an impartial consideration of all the circumstances of the case, if it is found that the inspector's report is borne out by further information, the name of the man is put upon a list and all the members of the Association are informed that such workman will not be insured under the policy. Naturally, the member looks to it that the man is not allowed to be taken on in his works and a gradual and very effective result of such a list of workmen is that those who are irreclaimably bad are kept permanently out of the shops of the members of the Association and a better tone is gradually being introduced among the other workmen, with excellent effects not only on the cost of the compensation, but on the morale of the men.

Every employer pays a standard rate of premium per £100 of wages that prevails in his class of manufacture, but if, after a short

period it is found that his cost is lower than the average cost of the class, he is entitled to receive consideration by means of a lower rate. It does not always follow, however, that the mere fact that his cost is lower than the average class cost is sufficient to qualify for a reduced rate unless it can be shown that the normal cost has been reduced by the member's own efforts. Every fatal case is considered to be a proper load of the class and where a permanent disablement claim costs more than £50, the first £50 is debited to the member's record and the whole of the excess is debited to the class. Every member of the class, therefore, bears the cost of his share of the fatal and permanent disablement cases, but each firm bears its own cost as regards all cases costing under £50 per case. If, therefore, an employer, by more careful guarding of machinery, by better supervision of the workmen, by the re-arrangement of the machinery, by a better system of lighting, or by more complete methods of carrying, reduces the number and seriousness of accidents in the course of the year, he will have considerably reduced his normal cost and will also, in consequence, be entitled to a reduced rate. The extra expense involved during the first year in effecting these improvements may be considerable and even cost more than the compensation otherwise payable, but the high class employer realizes that it is best in the long run, even looking to his own material interests alone, to incur this preliminary expense.

The claims inspectors of the Association have specially favourable opportunities of seeing what other firms are doing with regard to prevention of accidents and they carry from one works to another the latest current ideas. They are enabled to draw the attention of firms to new and improved arrangements which might prevent accidents, but it is, of course, for the employer to say whether, after balancing the advantages and disadvantages, the suggested improvement will interfere with the efficiency of the machine or limit the output to such an extent as to show no corresponding advantage in the direction of prevention of suffering.

V

Department of Labour, Canada,
Statistical Tables, X. A. R., No. 39.

STATISTICAL TABLE OF FATAL INDUSTRIAL ACCIDENTS IN
CANADA DURING THE CALENDAR YEAR 1909

TRADE OR INDUSTRY	NUMBER OF ACCIDENTS ACCORDING TO MONTHS												Total
	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	
Agriculture.....	14	16	12	10	14	29	23	46	18	26	20	28	256
Fishing and Hunting.....	4	..	..	9	4	2	1	5	..	7	2	..	34
Lumbering.....	10	10	6	4	28	24	6	3	11	3	13	12	130
Mining.....	6	10	10	9	10	16	6	12	13	46	10	12	160
Building trades.....	4	2	..	..	2	4	6	4	4	5	5	2	38
Metal trades.....	3	5	5	4	3	6	6	5	6	9	9	16	77
Woodworking trades.....	1	..	2	2	..	1	2	1	..	1	..	1	11
Printing trades.....	..	..	..	..	..	..	..	..	..	..	..	..	..
Clothing trades.....	..	..	1	..	..	..	..	..	..	..	..	..	1
Textile trades.....	..	..	..	1	..	..	..	..	..	..	2	..	3
Food and tobacco preparation.....	1	..	..	..	1	1	..	..	4	..	1	1	9
Leather trades.....	..	..	..	..	..	..	..	..	..	1	1	..	2
Railway service.....	20	24	31	16	24	23	30	11	16	27	47	14	283
Navigation.....	2	1	6	8	6	5	5	7	11	7	13	24	95
General transport.....	..	..	1	..	3	7	4	11	5	3	9	7	50
Civic employes.....	..	..	1	..	1	2	2	1	..	3	2	..	12
Miscellaneous trades.....	4	5	1	2	..	6	5	12	2	6	5	6	54
Unskilled labor.....	2	7	3	5	1	4	9	11	4	8	6	4	64
Total.....	71	80	79	70	97	130	105	129	94	152	145	127	1,279

Department of Labour, Canada,
Statistical Tables, X. A. R., No. 40.

STATISTICAL TABLE OF NON-FATAL INDUSTRIAL ACCIDENTS
IN CANADA DURING THE CALENDAR YEAR 1909

TRADE OR INDUSTRY	NUMBER OF ACCIDENTS ACCORDING TO MONTHS												Total
	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	
Agriculture.....	36	24	24	24	22	27	33	29	52	40	32	21	374
Fishing and Hunting.....	..	..	..	5	..	..	..	..	..	2	..	..	7
Lumbering.....	11	18	19	11	19	26	13	16	9	9	18	12	181
Mining.....	4	7	4	8	3	18	23	18	13	12	23	14	147
Building trades.....	11	5	8	13	32	39	24	26	24	23	25	15	245
Metal trades.....	20	30	40	43	27	39	64	36	33	47	53	50	482
Woodworking trades.....	11	14	9	13	9	28	10	15	10	16	8	15	158
Printing trades.....	..	6	5	4	..	1	3	4	2	4	5	1	35
Clothing trades.....	1	1	2	..	3	..	1	2	1	2	1	2	16
Textile trades.....	1	3	1	4	2	2	4	1	2	5	5	5	35
Food and Tobacco preparation.....	5	8	14	2	1	9	9	5	8	7	10	8	86
Leather trades.....	1	..	1	2	..	..	1	..	3	1	..	..	9
Railway service.....	20	17	23	19	19	26	25	22	11	44	38	29	293
Navigation.....	5	3	1	5	13	32	8	3	2	5	11	3	91
General transport.....	9	7	12	17	18	19	19	25	17	15	19	16	193
Civic employes.....	8	3	11	1	4	8	1	7	3	19	13	13	91
Miscellaneous trades.....	11	9	11	8	7	14	10	16	23	27	12	4	152
Unskilled labor.....	10	5	9	7	6	4	10	29	12	15	6	10	123
Total.....	164	160	194	186	185	292	258	264	225	293	279	218	2,718

TABLE SHOWING NUMBER OF FATAL AND NON-FATAL ACCIDENTS IN CANADA BY
TRADES DURING THE YEARS 1904 TO 1909 INCLUSIVE

TRADES	1904		1905		1906		1907		1908		1909		Total	
	Fatal	Non Fatal	Fatal	Non Fatal	Fatal	Non Fatal	Fatal	Non Fatal	Fatal	Non Fatal	Fatal	Non Fatal	Fatal	Non Fatal
Agriculture.....	103	121	132	291	176	262	209	295	223	291	256	374	1,099	1,634
Fishing and Hunting	16	1	13	1	15	3	17	4	37	1	84	7	132	17
Lumbering	69	120	75	155	119	156	129	138	113	115	130	181	635	865
Mining	103	117	70	135	119	174	181	226	148	187	160	147	781	986
Building trades.....	43	140	46	131	69	272	33	211	46	219	38	245	265	1,218
Metal trades.....	74	393	56	434	69	562	154	570	63	364	77	482	493	2,805
Woodworking trades.....	12	154	8	150	4	133	8	138	7	116	11	158	50	849
Printing trades.....	..	9	1	19	..	17	1	23	..	12	..	35	2	115
Clothing trades.....	3	21	2	36	2	19	1	24	1	16	1	16	10	132
Textile trades.....	3	23	2	30	3	46	3	41	2	37	3	35	16	212
Food and Tobacco preparation.....	6	55	9	76	20	79	18	73	14	63	9	86	76	432
Leather trades.....	2	4	6	7	3	13	..	3	3	5	2	9	16	41
Railway service.....	272	168	140	233	252	340	342	337	326	316	283	293	1,615	1,688
Navigation*.....	..	..	128	117	117	61	100	74	84	62	95	91	524	406
General transport.....	113	168	140	234	45	178	55	193	64	132	60	193	457	1,088
Civic employes.....	..	..	7	5	5	66	6	80	19	55	22	91	49	297
Miscellaneous trades.....	41	178	71	159	56	222	62	168	61	156	54	152	345	1,035
Unskilled labor.....	30	119	57	143	43	142	34	154	71	130	66	123	269	811
	890	1,791	963	2,357	1,107	2,745	1,353	2,752	1,272	2,277	1,278	2,718	6,964	14,538

* Included with General Transport in 1904.
† Only constituted in a distinct group in 1906.

APPENDIX

PART THREE

Voluntary Relief Associations in the United States—A Descriptive Account of the Practical Working of the Systems
Adopted by the International Harvester Company,
Cheney Brothers, and the General
Electric Company

APPENDIX

PART THREE

VOLUNTARY RELIEF ASSOCIATIONS

The effort of the National Association of Manufacturers to further in the United States, a *national system* of injured workers' relief, must not, and will not, interfere with the voluntary action of employers. Last year's inquiry brought out the fact that 17 per cent of the members operate some sort of voluntary system of workers' relief in their establishments. This percentage is increasing rapidly and voluntary action is by no means restricted to members of the National Association of Manufacturers. Secretary of Commerce and Labor, the Hon. Charles Nagel, spoke understandingly on this subject during a recent address in Chicago when he said:

"At the present time legislation is endeavoring to formulate a rule more in keeping with the modern conception of the true relation between the employer and employe, and it may be justly said that these changes, wrought in part by the courts, and in part by the legislature, are in line with the standards which the most far-sighted proprietors have quietly adopted.

* * * Here, as everywhere, our attention is called to the hardships as manifested in endless and costly litigation, and we are not unmindful of instances in which proprietors of their own accord have waived the technical rights of the law, and

National Relief
System Will
Not Interfere
With Individual
Employers'
Action

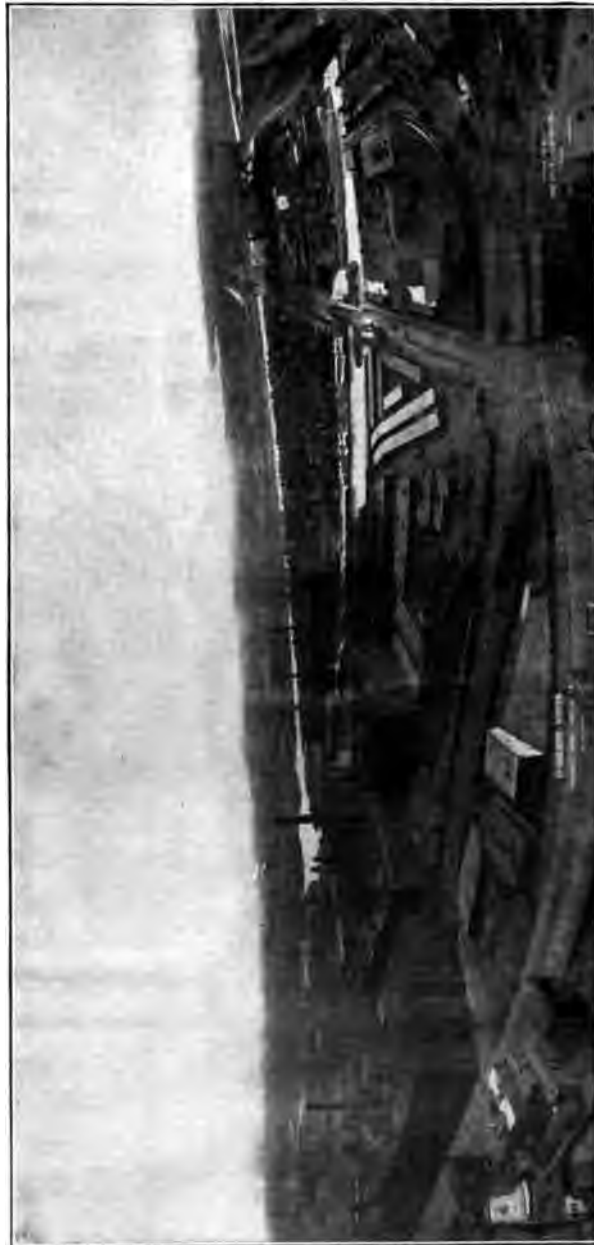
Legislation
Planned
Meets Far-
Sighted Em-
ployers' Ideas

Some
Employers
Willing to do
More than
Law Demands

have by their own consent shaped new rules and customs affording a larger measure of justice and equity to their employes. It would be an easy matter to instance large concerns in this country which for many years have seldom appeared in court as defendants in damage suits. These concerns, actuated, perhaps, by motives of fairness and wisdom, perhaps in a measure by considerations of economy, have broadly assumed that every accident and every injury upon their premises create a presumption against them, and that in consequence it is for them to make compensation broader, more generous, more adequate and more prompt than the letter of the law seems to demand."

A few concrete statements, describing the systems in operation in the establishments of some of our members, are appropriate here and the courtesy of the International Harvester Company, Cheney Brothers, and the General Electric Company, enables us to place the following valuable statements before our readers.

FIGURE 118



International Harvester Company's McCormick Works.

WORKERS' RELIEF AND PENSION SYSTEM OF THE
INTERNATIONAL HARVESTER COMPANY

By G. A. RANNEY

The International Harvester Company was the first corporation in the United States to announce and put into effect plans for the complete protection of its employees. Other large employers of labor, especially the railroads, preceded the International Harvester Company with pension systems and benefit associations, but the latter Company was first to voluntarily assume compensation for industrial accidents.

First Corpora-
tion to adopt
Voluntary Relief
Plan

Their activities along these lines are divided into three heads, namely, the Industrial Accident Department, the Employees' Benefit Association and the Pension System, and a short description of each follows:

It is well to bear in mind that these plans apply to all of the Companies associated with the International Harvester Company and cover a wide field of industrial activities.

INDUSTRIAL ACCIDENT DEPARTMENT

In the words of the Company—

"The purpose of this plan is to insure to employes at the works, twine, steel and lumber mills, and on the railroads, prompt, definite and adequate compensation for injuries resulting from accidents occurring to them while engaged in the performance of their duties, and also to provide compensation to the widow, children and relatives who may be dependent upon any employe whose death results from such accident.

Prompt
Definite and
Adequate Com-
pensation

"The benefits provided for by this plan will be paid *regardless of legal liability* on the part of the Company and no injured employe will require legal assistance to collect the money to which he is entitled."

The Company, without any contribution from the employees, pays the following compensation for personal injuries caused by accidents arising out of and in the course of employment:

1. Disability Benefits.

Benefits
Increase as
Disability Con-
tinues

(a.) During the first 30 days of disability, one-fourth of the employee's average daily pay.

(b.) After the first 30 days, half pay during the continuance of disability, but not for more than 104 weeks from the date of accident.

(c.) These disability benefits are payable every two weeks but in no case exceed \$20 a week.

(d.) An employee who has received benefits for 104 weeks and who is then totally disabled, shall, so long as his total disability continues, be paid an annual compensation equal to 8 per cent of the death benefit which would have been payable had the accident resulted in death; such compensation, however, shall not be less than \$10 per month, and shall be payable monthly.

(e.) Disability benefits are based upon the average daily wages received during the 60 days worked preceding the accident; if employee worked less than 60 days, then on the average daily wages received during such period.

2. Special Benefits.

(a.) If the injury causes the immediate severing of, or in the opinion of the medical examiner or works' physician, necessitates the amputation of a hand or foot at or above the wrist or ankle, one and one-half years' wages, but in no event less than \$500 nor more than \$2,000.

Amounts
Paid Vary
According to
Extent of
Injuries

(b.) In case of the loss of both hands or both feet, or one hand and one foot, four years' average wages, but not less than \$2,000.

(c.) In the case of the total and irrecoverable loss of the sight of one eye, three-fourths of the average yearly wages.

(d) In the case of the total and irrecoverable loss of the sight of both eyes, four years' average wages, but not less than \$2,000.

3. Death Benefits.

If the employe leaves a widow, child or children, or other relatives dependent upon his earnings for their support, benefits shall be paid as follows:

(a.) If death results from accident before the expiration of 16 weeks from the date thereof, three years' average wages, but not less than \$1,500 nor more than \$4,000.

(b.) If death results from accident between the end of the sixteenth week and the end of the fifty-second week after the date thereof, two years' average wages (but not more than \$3,000), less all disability benefits paid.

Suddenness of
Death
Determines
Amounts paid
to Dependents

(c.) If the employe leaves no widow, children or other relatives dependent upon him for their support, then reasonable hospital and medical expenses, and a further sum for funeral expenses, not less than \$75 nor more than \$100.

(d.) No death benefits shall be paid unless death results within 52 weeks from the date of the accident, nor unless a written claim shall be filed by the executor, or administrator of the deceased employe within three months after the employe's death.

The disability benefits for the first 30 days of disability are increased from one-fourth wages to one-half wages, *provided* the employes contribute as follows:

Employes earning \$50 or less per month, six cents per month;
Employes earning \$50 and not more than \$100, eight cents per month; and
Employes earning more than \$100 per month, ten cents per month.

Benefits In-
creased for
Employes
Contributing
to Fund

The Company is committed to the principle that the employe should contribute something to the benefit fund, the reason being that

Co-operation
of Employees
Desired

the Company earnestly desires the co-operation of its employees in the payment of benefits for the first 30 days of disability, because it wishes every employe to assist in the prevention of accidents. The Company has expended large sums in safeguarding machinery in an effort to protect its employees, but *without the active co-operation of the employees* many accidents cannot be avoided. Under this plan the Company and the employees equally divide the payment of benefits during the first 30 days of disability, and thus every employe becomes financially interested in guarding against accidents and in seeing that his fellow workmen are equally careful. It is the hope of the Company that this mutual interest will lead to active co-operation on the part of the employees and that thereby accidents will be reduced to a minimum."

No Compensation
for Accidents
Caused
by Workers'
Misconduct

The Company does not pay compensation if accidents, resulting in injury or death, result from or are caused directly or indirectly, wholly or in part, by the intoxication, or partial intoxication of the employe, or by his failure to use the safety appliances provided by the Company, or by his own gross or willful misconduct.

The commencing of any legal action whatsoever against any of the companies associated in the Industrial Accident Department, on account of such injury by the employe, or, in the event of his death, by his executor, administrator or personal representative, bars any right of compensation under the plan.

Injured Workers
Must Follow
Directions of
Company's
Physician

An injured employe, to secure benefits, must immediately give notice or cause notice to be given through his timekeeper of the time and place of the accident, the nature and cause of the injury, and of his residence address; and must submit immediately to a physical examination by the medical examiner or works' physician or other physician designated by the Company, and thereafter strictly follow the directions given by such medical examiner or physician. The payment of benefits cease if the injured employe refuses to follow the direction of the medical examiner or other physician.

The Company maintains medical examiners at its various works, whose duties are to make examination of injured employes and decide when employes are disabled and when able to work.

All of the operating expenses of the department are paid by the Company and no part of the contributions from employes is used to pay such expenses. The department is managed by a Board of Management, composed of five members appointed by the Company. This Board has complete control of the department and appoints its employes, medical examiners, etc., etc.

Company Pays
Operating
Expenses

The International Harvester Company is earnestly striving to reduce the number of industrial accidents. All of its equipment is being properly safeguarded. Shop lighting, ventilation, sanitation and all conditions affecting the life and safety of its employes are having constant attention and such conditions are being constantly improved and brought up to a high standard.

Nothing Left
Undone to
Prevent Acci-
dents

A most interesting pamphlet has been published entitled "Protection Against Injury." This pamphlet contains rules for the foremen and also for the workmen on how to avoid accidents. These rules are grouped by departments, so that an employe, say, in a foundry, does not have to read the whole book. This book also contains photographs picturing the right and wrong way to use safety devices, the object of the pictures being to impress upon the minds of the workmen the necessity for constant vigilance. Some of these pictures are shown on pages following. This book on "Protection Against Injury" has been published in ten languages, namely, English, Greek, Russian, Polish, Swedish, Lithuanian, Italian, Bohemian, German and Hungarian, so there is practically no excuse for any employe who can read to say that he was not advised of how to avoid being injured.

Pamphlet on
Accident Pre-
vention Pub-
lished in Ten
Languages

The International Harvester Company pursues the subject of protection against injury by an especially appointed man and this work is handled the same as that of other departments and is considered the most important subject that the Company has to contend with today in the manufacture of its product.

Accident Pre-
vention Com-
pany's Most
Important
Problem Today

FIGURE 119



Catching iron in foundry. The only correct and safe way for a foundryman to catch iron is to cut the stream in towards the furnace. The above picture shows the correct way.

EMPLOYEES' BENEFIT ASSOCIATION

Factory-workers
Contribute
1½ Per Cent
of Wages to
Get Benefits
If Injured off
Duty

The object of the Employees' Benefit Association is to create and maintain a fund at the least possible cost, which shall belong to the employees, and from which shall be paid to the members when disabled a certain income, and to their families certain definite sums in the event of death. The membership is divided into two classes:

Class B includes all members employed at the works, twine, steel and lumber mills, mines, and on the railroads. Members in Class B contribute 1½ per cent of the wages received by them. They are entitled to receive disability benefits for sickness and for accidents received *while off duty*, and their dependents are entitled to death benefits from death resulting from the above causes. (Benefits for accidents received while on duty are paid by the Industrial Accident Department as outlined on page 386.)

FIGURE 120



Catching iron in foundry. This foundryman placed his ladle in back of the stream and cut the stream away from the furnace. This is always dangerous and results in many serious burns to the feet and legs.

Members of Class A include all other employees, namely, those in the general office and in the sales and collection departments. These members contribute 1% per cent of their wages or salary, and are entitled to disability or death benefits due to sickness or to accidents either on or off duty.

Other Em-
ployes Pay 1%
Per Cent, But
Get Benefits
Uncondition-
ally

The contributions of all members are based on wages which members earn when working full time. No contributions are made by disabled members who are drawing benefits. Members who leave the employ of the Company may contribute for a death benefit only, which contribution amounts to ten cents per month for each one hundred dollars of death benefits. No member of the Association is allowed to contribute on the basis of a salary in excess of \$2,000 per annum. The regulations provide for the following benefits:

Disability from sickness, one-half wages, except for the first seven days, for a period not longer than 52 weeks.

FIGURE 121



Right

Wrong

Foundrymen should wear the best shoes and pants for safety.
Kind of pants and shoes for foundrymen to wear; hard cloth (Jean) pants
and congress shoes protect the legs and feet from burns.

**Disability and
Death Benefits
Paid**

Disability from accident, one-half wages, beginning with the date
of the accident, for a period not longer than 52 weeks.

Death from sickness, one year's average wages.

Death from accident, two years' average wages.

Loss of one foot or one hand, one year's average wages.

Loss of both hands or both feet or one hand and one foot, two
years' average wages.

Loss of one eye, one-half year's wages.

Loss of both eyes two years' wages.

Any employe in the service of the Company on or before Septem-
ber 20, 1908, had the privilege of becoming a member of the Asso-
ciation without medical examination and regardless of age at any
time prior to January 1, 1909. Subsequent to the latter date all
applicants for membership have been required to pass a physical ex-
amination. Any employe who entered the service of the Company
after September 20, 1908, and who was over 45 years of age was

**Physical Ex-
amination Re-
quired to Join**

FIGURE 122



Use care in loading trucks. Broken legs and serious injuries may result from careless loading of trucks

allowed to contribute for the regular disability benefits; the death benefit, however, being limited to \$100. An employee who has been a member of the Benefit Association for one year and leaves the service of the Company may continue his membership in respect only of the maximum death benefit which he has held during the past year. Each member signs an application for membership, in which he authorizes the Company to deduct his contributions from his wages, names his beneficiary, agrees to be governed by the regulations, and states that he is correct and temperate in his habits. Female employees are accepted as members on the same basis as male employees.

Death Benefits
May Continue
after Leaving
Company

When a member is disabled, he must notify his timekeeper or superior officer at once. The medical examiner decides when benefits are to begin and when they are to terminate.

No benefits are paid when the disability is due to intoxication or the use of alcoholic liquors or to unlawful or immoral acts. This

FIGURE 123



Emery wheels. The man at the left has a piece of emery in his eye because he did not wear glasses. The man at the right is wearing the glasses provided for emery wheel grinders.

bar does not apply to the payment of death benefit to his beneficiaries, provided contribution is made during disability.

Board of 30 in Charge; One-half Elected by Members; Other Half Appointed by Company

The Benefit Association is in charge of a Board of Trustees, consisting of 30 members representing the various works and departments. One-half of the trustees are elected by ballot by the members of the Association and one-half are appointed by the Board of Directors of the Company. The president of the Company is ex-officio chairman of the Board. The Board of Trustees appoints the superintendent and has general supervision over the Association. It meets quarterly. All questions may be appealed to this Board over the decision of the superintendent and its decision is final. The superintendent, under the direction of the Board, has charge of all business of the Association and acts as secretary of the Board. He employs medical examiners, clerks, etc., pays all benefits under the regulations, certifies all bills and pay rolls, and decides all questions properly referred to him.

A medical examiner is stationed at each of the works. He makes the required physical examinations, visits the sick and injured, and

FIGURE 124



The wrong way to use a shaper. Employees not using guards provided for wood shapers will be discharged. See that the guards on your machine are always in place.

decides when they are disabled and when they are able to work, and performs such other duties as may be required of him by the superintendent.

The membership in the Association is voluntary.

At the end of each year, if the average membership in the various manufacturing plants during that year has equalled 50 per cent of the average total number of employees in the plants, the Company contributes \$25,000 to the fund; and if such average membership has equalled 75 per cent of such total number of employees, the Company contributes \$50,000 to the fund. On January 1, 1910, the Company contributed \$50,000 for the preceding year, and according to the membership during 1910 will undoubtedly be required to make another contribution of the same amount.

Company
Makes Liberal
Contribution
Based on
Membership

All expenses of the Association are paid out of its funds. The annual contribution of the Company is first applied toward the nec-

Association
Financially
Sound

FIGURE 125



Shaper in wood shop. You cannot be injured on a shaper if a guard is used as shown above.

essary expenses of conducting the affairs of the Association, and the balance remaining after such deduction is available for the payment of benefits.

The Benefit Association on December 1, 1910, had a membership of over 28,000 and it was in a most flourishing financial condition.

PENSION SYSTEM

Workers Do
Not Contribute
to Pension
Fund

The pension system, like most all other systems, is based on the age and length of service of the employee. The Company, however, does not require any contribution from the employees to the pension fund as the payment of all pensions is assumed by the Company. Male employees who have reached the age of 65 years and who have been in the service 20 years may be pensioned upon their application, while all employees who have reached the age of 70 years and who have been in the service 20 years or more shall be pensioned.

FIGURE 126



The wrong way to use a saw guard. Employees not using guard provided for circular saws will be discharged. See that the guard on your machine is always in place.

FIGURE 127



Circular saw in wood shop. This man has the saw guard in place and his hands are protected from injury.

FIGURE 128



Spinner in twine mill. This girl has stopped her machine and is removing the twine from the shaft with her knife. This is the only safe way.

FIGURE 129



Spinner in twine mill. This girl did not obey the rules of the company and tried to remove twine from the shaft with her fingers instead of her knife, while the machine was in motion. A serious injury to her hand was the result.

Female employes who have reached the age of 50 years and have been 20 or more years in the service may, at their own request, be pensioned, but all female employes shall be retired at the age of 60 years, provided they have been in the service 20 years.

The amount of the annual pension (which is payable in monthly installments) is arrived at in the following manner:

For each year of active service an allowance of 1 per cent of the average annual pay during the 10 years next preceding retirement. No pension shall exceed \$100 per month or be less than \$18 per month.

Pension Paid
Is One Per
Cent of Wages
for Every
Year of Ser-
vice

The administration of the pension fund is in charge of a Pension Board consisting of five members—all officers or employes of the Company and appointed by the Board of Directors.

* * * * *

The International Harvester Company has printed pamphlets describing the three plans mentioned above and copies of same may be obtained by those interested in this subject by communicating with G. A. Ranney, International Harvester Company, Harvester Building, Chicago.

FIGURE 130



Cheney Bros.' Silk Mills, South Manchester, Conn.

**PLANS ADOPTED BY CHENEY BROTHERS FOR INDUSTRIAL
INSURANCE AND OLD AGE PENSIONS**

By HOWELL CHENEY

In the past both the Company and the employes had established, as occasion required, various forms of relief for disability. On the part of the Company these had not been administered under any well-defined system, or in proper relation to each other, and consequently had not served the ends for which they were designed, in the most efficient manner. Their basis was a charitable one tending to supplement incompetence and thriftlessness, rather than to encourage efficiency and foresight. On the part of the employes their mutual assistance has been limited necessarily to particular or fraternal groups, and so has not been within the reach of the great majority of employes.

Past Plans
Based on
Charity In-
efficient

The industry is one of the least hazardous of mechanical employments, and the problem of taking care of industrial accidents was felt to be only an incident in the general problem of social insurance, and not to be separated from it. The value of the contributory principle was recognized, but its object in securing a mutual and co-operative undertaking was obtained by making the insurance against industrial injuries, upon a fixed and liberal scale entirely at the employer's expense, dependent upon the employee's protecting himself against disability due to sickness at his own expense. Also the granting of a pension as a return for long and efficient service was made

Contributory
Principle
Applied

dependent upon the individual's having contributed toward an annuity. A long established custom in the payment of accident benefits made a direct cash contribution impracticable, and in the particular industry not essential, because most of the injuries being of a minor nature the establishing of a cash contribution or of a long waiting period would make it appear that the injured persons were still carrying the whole of the burden.

40 Per Cent
of Employees
Women

On the lines indicated above the Company proposed to its employees a mutual and co-operative undertaking, whereby a comprehensive range of insurance against loss of earning power due to all forms of disability was made possible for all under equal conditions as regards costs and results. Forty per cent of the employees are women, and a careful study was made of this side of the problem, which is a feature the railroads, wood and metal trades have not had to consider.

Disability
Insurance
Through
Mutual
Benefit
Association

The development of the scheme proposed the uniting of all these forms of protection under two general plans, which were carefully correlated:—First, the organization of a mutual benefit association managed jointly by the Company and its employees to cover injuries, sickness, annuities and death; and secondly, the development by the Company of old age pensions as assuring a definite return for long, efficient and faithful service. The following description states in concise form the more important features of these plans. The exact conditions governing them are contained in the formal constitution and by-laws.

OBJECT

Workers Con-
tribute 2 Per
Cent of Wages

The object of the Association was to provide a simple and easy means whereby those employees who were willing to set apart approximately 2 per cent of their wages might secure to themselves or their families an assured income in the form of certain benefits to be paid in the case of death, sickness, injury or incapacity from old age.

MEMBERSHIP

Prior to December 1, 1910, all of the employees of Cheney Brothers, or subsidiary companies, were eligible, unless physically disqualified, to full membership. Since December 1, 1910, employees over 45 years of age have been eligible to limited membership only, which entitles them to sick and accident benefits, but not to death claims or annuities. The contributions of full members are 2 per cent of the mean wage of the class to which they belong, and of limited members 1¼ per cent.

45 Years the
Age Limit for
Full Member-
ship

ORGANIZATION

The affairs of the Association are managed by a president, vice-president, superintendent, medical director and eleven trustees. The treasurer of the Company is the Association treasurer and an ex-officio member of the Board of Trustees. Of the other members of the Board five are appointed by the directors of the Company, and five are elected by the members. The president and vice-president are chosen by the Board on the nomination of the trustees representing the members. The superintendent and medical director are appointed by the Board on the nomination of the trustees representing the Company. There are three executive committees known as the operating, finance and auditing committees. One member of the operating committee is chosen by the trustees representing the members, one by the trustees representing the Company, and the third is the superintendent. The finance committee is chosen in like manner, the treasurer being the third member thereof.

Board of
Trustees Made
up of Five
Appointees of
Company and
Five Repre-
sentatives of
Association's
Members

CONTRIBUTIONS

Contributions are paid monthly in advance and are subtracted from any wages earned, or otherwise are paid in cash.

ACCIDENT BENEFITS

Benefits Paid
Automatically

All accident benefits are paid by the Company, including medical and surgical attendance, and hospital maintenance, where necessary, but are distributed through the medium of the Association. They are allowed to members of the Association who are injured in the service, unless the injury was due to the member's own willful and serious misconduct, or disobedience of rules reasonably designed for the protection of employees. Such accident benefits are paid automatically to members *only*, without any question as to the Company's legal liability. The specific benefits are:

(a.) In case of death, three years' wages and reasonable funeral expenses.

(b.) In case of total incapacity, half pay during the continuance of disability, excepting the first three days, for a maximum of six years.

Injured
Workers
Taken
Care of

(c.) In case of partial incapacity, after the resumption of work, one-half the difference between the wages earned before and after the injury. Such partial incapacity benefits continue for such part of the six years as the total incapacity benefits have not been paid.

(d.) In all cases of accidents to members, medical and surgical attendance, artificial limbs and hospital maintenance, where necessary, are provided at the expense of the Company.

(e.) One per cent is added to the above accident benefits for every year of service over five; and in the case of married members supporting families, 5 per cent for each child, until a maximum increase of 25 per cent is reached.

SICK BENEFITS, AND DEATH CLAIMS FROM DISEASE

Sick benefits are paid out of the contributions of members, amounting to 2 per cent of their average wages for full members and 1¼ per cent for limited members, plus a contribution from the Company of one quarter of the amount paid in by the members.

Members are divided into five classes according to their average weekly wages.

The specific benefits and contributions for each class are given below:

SECTION 6. SCHEDULE OF SICK AND DEATH BENEFITS

	Class A	Class B	Class C	Class D	Class E
Those receiving { more than weekly { not more than	\$7.50	\$7.50 12.50	\$12.50 17.50	\$17.50 22.50	\$22.50
Mean wage of Class	\$5.00	\$10.00	\$15.00	\$20.00	\$24.00
Benefit per week { 1st 52-weeks { 2d 52 weeks	\$2.50 1.25	\$5.00 2.50	\$7.50 3.75	\$10.00 5.00	\$12.00 6.00
Death Claims	\$130.00	\$260.00	\$390.00	\$520.00	\$624.00
Weekly Contribution { 2% of mean wage —full members	\$0.10	\$0.20	\$0.30	\$0.40	\$0.50
*1¼%—limited members	.06¼	.12½	.18¾	.25	.31¼

*Limited membership purchases no death claims nor annuity.

In the case of sickness or injuries other than those suffered in the service, they receive one-half of the mean wage of their class for the first 52 weeks (excepting the first three days) and one-quarter for the second 52 weeks; and in the case of death one-half of the mean yearly wage of their class.

Half Benefits
to Members
Disabled
While Off
Duty

ANNUITIES

The balance of the money, contributed by the members, left after the payment of sick and death benefits, is transferred to a fund called

Reserve
Fund for
Paying Annul-
ties

the Reserve Fund. This is invested and allowed to accumulate into a fund from which annuities will be paid to members from the time of their retirement until their death. Members who leave the service after contributing five years can recover that proportion of their contributions which was charged to this fund, without interest. The dependents of members who have died before becoming entitled to an annuity, can recover with compound interest at 4 per cent. Female members may at the time of marriage recover the proportion of their contributions charged to this fund, with compound interest at 4 per cent. Thus members may benefit from this fund by three methods.

(a.) By retiring at the annuity age because of either old age or permanent incapacity.

(b.) By leaving the service after having contributed for five years.

(c.) By the beneficiaries of members receiving as an addition to the death benefit that proportion of the member's contributions which has been carried over to the fund, with interest compounded at 4 per cent annually.

Annuities can be paid under the first classification to the following:

(a.) To men over 70 years of age and women over 60 years of age, who have been contributors to the fund for 10 years.

(b.) To men over 65 years of age and women over 55 years of age who have been contributors to the fund for 15 years and who are retired.

(c.) To men or women of any age who have been contributors to the fund for 20 years and who have become permanently incapacitated for further work in the service of the Company.

On leaving the service there is a further restriction in that the payment may not be made until one year after the termination of membership, which is to prevent a dissipation of the fund for purposes other than were intended.

Under the third classification if a member dies before becoming entitled to an annuity it becomes a definite addition to his death benefit.

No annuities can be paid under the plan for 10 years, and their amounts will be dependent upon several unknown factors, such as the average rate of interest to be obtained on the investments of the Association, the average age of entering and retiring, and the number of withdrawals. It is conservatively estimated that they will be equal to about one-fifth of the amount of the pensions.

MONTHLY ANNUITIES FOR CLASS C

Age at Retirement	YEARS CONTRIBUTED						
	20	25	30	35	40	45	50
70		\$4.80	\$6.03	\$8.94	\$11.79	\$15.36	\$19.74
65	\$2.49	3.57	4.92	6.60	8.67	11.25	
60	2.01	2.88	3.93	5.25	6.90		
55	1.71	2.43	3.30	4.41			
50	1.50	2.13	2.88				
45	1.35	1.89					

PENSIONS

The pension system is related to the Benefit Association in that its members only are eligible for pensions. The granting of pensions remains, as before, a sole activity of the Company. And while membership in the Association establishes eligibility, it does not in itself create any right to a pension, which is granted at the discretion of the Directors of the Company as a return for long, efficient and faithful service.

Company
Grants
Pensions for
Long and
Efficient
Service

Pensions may be granted by the pension committee, under the regulation of the directors to the following classes of employees, if members of the Benefit Association:

**Wages and
Length of
Service
Determine
Pension**

(a.) To any employe over 50 years of age who has been 25 or more years in the service, and who has become totally incapacitated for further work at any employment or trade; or to those employes as much younger than 50 as they have worked years more than 25, who have become totally incapacitated.

(b.) To men, after 25 years of service, who are 70 years of age or over; or to men for the same term, who are from 65 to 69 years of age inclusive and have become incapacitated for work of a like character to their past trade or employment.

(c.) To women, after 20 years of service, who are 60 years of age or over; or to women for the same term who are from 55 to 59 years of age, inclusive, and have become incapacitated for work of a like character to their past trade or employment.

The amount of a pension is determined by the employes' efficiency as expressed in wages and years of service. It is 10 per cent of the average actual monthly wages for the 10 years preceding retirement plus 1 per cent of the same amount for every year of service. There is no maximum or minimum rate of pensions and all from superintendents down will be figured by the above rule.

**ESTIMATE OF AMOUNT OF PENSIONS FOR VARIOUS RATES OF
WAGES AND TERMS OF SERVICE**

Average Monthly Rate of Wages	\$36	\$40	\$45	\$50	\$60	\$70	\$80	\$90	\$100
Term of Service									
20 years	\$10.80	\$12.00	\$13.50	\$15.00	\$18.00	\$21.00	\$24.00	\$27.00	\$30.00
25 years	12.60	14.00	15.75	17.50	21.00	24.50	28.00	31.50	35.00
30 years	14.40	16.00	18.00	20.00	24.00	28.00	32.00	36.00	40.00
35 years	16.20	18.00	20.25	22.50	27.00	31.50	36.00	40.50	45.00
40 years	18.00	20.00	22.50	25.00	30.00	35.00	40.00	45.00	50.00
45 years	19.80	22.00	24.75	27.50	33.00	38.50	44.00	49.50	55.00
50 years	21.60	24.00	27.00	30.00	36.00	42.00	48.00	54.00	60.00
55 years	23.40	26.00	29.25	32.50	39.00	45.50	52.00	58.50	65.00

COST TO EMPLOYEES AND ITS DISTRIBUTION IN BENEFITS

The cost to employees is 2 per cent of their wages which an actuarial estimate distributes as follows:

	Per cent
Cost of Sick Benefits .....	.9
“ “ Death Benefits from Sickness.....	.4
“ “ Out of Service Accidents, classed as sickness.....	.125
Transferred to Reserve Fund for Annuities.....	.575
Total.....	2.

It has been possible to give an amount of insurance under these plans which it would not be possible for members to purchase at the same cost from any commercial insurance company, or in any fraternal or mutual benefit society, because all of the operating expenses, all the benefits for injuries received in the service and 25 per cent of the amount contributed by the members toward sick benefits, death claims from sickness, and annuities, are paid for by the Company, in addition to the entire cost of pensions, which are administered under a separate plan.

In dealing with insurance against sickness and death it is a very difficult problem to convince wage earners, whose experience with insurance problems is not large, that a sound conservative proposition based on scientific actuarial estimates is in the long run cheaper as well as safer for them, than the less expensive premiums charged by assessment and fraternal benefit associations, whose universal practice is to encourage new business by deferring the inevitable day of reckoning. It would have been a material assistance in meeting this problem if the right to a death benefit could have been continued after leaving the service until some fixed age, as is done by the International Harvester Co.; but the Connecticut laws made such a course impossible. As a matter of fact, few such policies would be

Benefits
Greater than
those of
Private In-
surance Com-
panies or
Mutual and
Fraternal
Societies

continued, but it would answer the objection that the life insurance feature compelled continuance in one employment, whereas fraternal associations were under no such restrictions.

COST TO THE COMPANY

The cost of the plan to the Company was estimated to be the following percentages of the pay roll:

	Per cent
Operating Expenses Including Inspection and Medical Expenses.	.125
In Service Accidents .....	.375
Contribution to Sick Benefit Fund.....	.5
Total Benefit Association Expenses	1.
Cost of Pensions	2.
Total	3.

No Guide for
Other
Industries

The cost of pensions would form no criterion as to estimating the cost of pensions in other industries or establishments, as the character of the help is most unusually stable and fixed and contains a very high percentage of employees eligible to pensions either immediately or prospectively.

THE REASONS FOR THE ASSUMPTION OF THESE OBLIGATIONS

Company Con-
siders Accident
Compensation
Part of
Cost of Pro-
duction

in the case of accidents it was the replacing of a haphazard charitable system, more or less dependent upon the varying discretion of department managers, with a uniform system guaranteeing a just and equal treatment of every case. In a wider sense it is a definite statement by the Company of the general principle under which they have acted for many years, that injuries, so far as they are a necessary incident to industry, are a part of the cost of production and should

be borne to that extent by the consumer, and not entirely by the injured person. The plan provides for a means of determining this factor of the cost of production more definitely, and of insuring both the Company and the employe against it.

In the case of sickness four considerations induced the Company's contribution to the sick benefit fund. First, it was an extension of the Company's past system of relief to individuals and tubercular patients, so that it was not entirely dependent upon charity but was an encouragement to the efficient and provident employe who was willing to make a sacrifice to secure the additional benefits guaranteed. Secondly, it covered whatever slight occupational disease or unsanitary conditions might be connected with the industry, which its members were powerless to protect themselves against. Third, illness as well as injury occasion a large economic waste to the Company as well as to the employes on account of lost time, idle machinery, and ineffective work. It is to the direct interest of the Company as well as the individual to bring about a re-establishment of health, and consequently efficiency, by supplying the best conditions possible for recovery. In furthering these ends much could also be accomplished by scientifically helping the employes to protect themselves from the depredations of cheap assessment plans, which deprived them of the assistance which they supposed they had purchased, when they most needed it in their old age.

Company
Benefited by
Helping Sick
and Injured

In the case of pensions the past practice of the Company has tended toward their bestowal in cases of necessity. The new regulation makes a pension dependent on the part of the Company on long, efficient, and faithful service; and further on the part of the employe upon his willingness, independently of it, to supplement his pension by a definite degree of providence on his own part in the form of an annuity. This makes a pension not so much a charity as an acknowledgment of the additional value of length and fidelity of service; it provides a pension for the efficient, thrifty employe as a matter of sound business policy, rather than to the less efficient and improvident hand as a matter of charity.

Pensions
Good
Business
Policy

PRINCIPLES INVOLVED

LIABILITY

Plan Insures
Company
Against Un-
just Legal
Burdens

The aim was first to eliminate the whole question of liability, and to place the remedy on an entirely different plane. Therefore, no attempt has been made to alter in any respect the present legal rights or liabilities of either party to the contract. And the Company did not believe it was running a great risk in not demanding a release from some portion of its liability in lieu of assuming considerable obligations not imposed upon it by law and statutory rights. The character of the plan itself is the Company's best insurance against the imposition of unjust and unreasonable legal burdens; best in proportion as it automatically insures the workingmen, in their own right and not as a charity, of a fairer distribution of the burden of accidents and disabilities inevitably due to the modern organization of industry than they could obtain either through the intermediary of a law, a court or an insurance company.

COMPENSATION VS. INSURANCE

Individual
Replaced by
Collective Re-
sponsibility

The principle is fast becoming established that industrial accidents are a risk inherent in modern industry and not justly based on any theory of personal fault; and that an economical settlement of the matter is dependent upon our removing it from the sphere of individual responsibility and basing it squarely upon the new theory of a collective responsibility for a risk inherent in the system. It should follow from this that either "damages" or "compensation" in the sense of making good a loss is as mistaken a settlement as was the principle of legal awards assessed by a court. No amount of damages can rightly compensate for the life of a husband, son or brother. The ultimate cause lies in human nature and the organization of industry. The direct causes are as varied as the characters of men and the organization of industry. They cannot be exactly defined by laws. They belong to a system,

not to individuals. Clearly the remedy must be worked out between the component parts of the system, and must be much more in the nature of a mutual insurance against a known risk than of compensation for damage done.

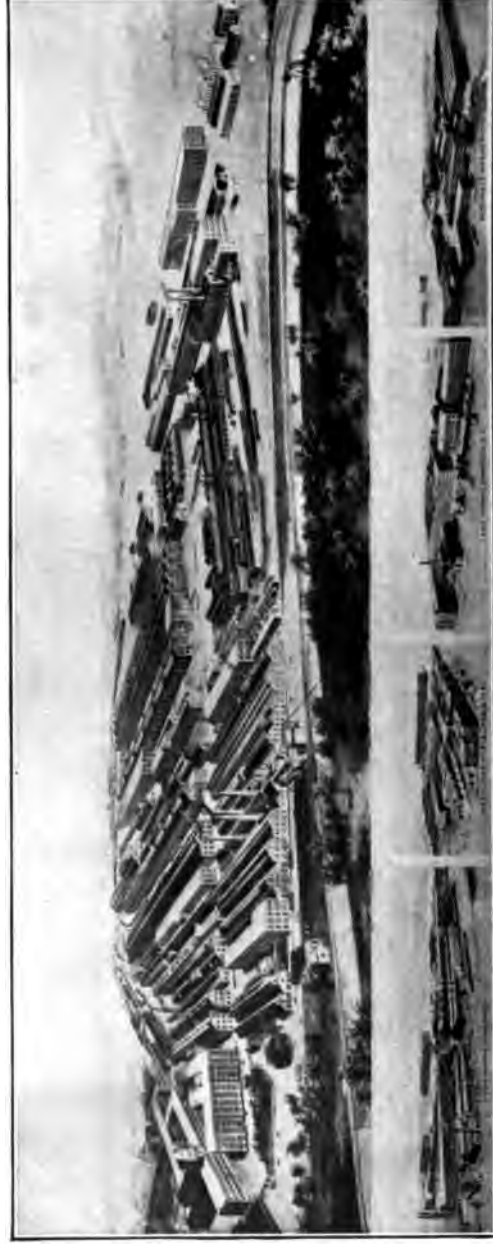
CHARACTER OF THE INSURANCE

It is not in the nature of charity or poor relief. Hence, to measure the insurance by the "dependence" created, as is done in the English system, is to start upon an entirely false basis. It is an insurance against loss or depreciation of earning power, i. e., wages, or efficiency. The aim should be entirely to conserve or maintain the efficiency of workers, and hence their insurance should be expressed entirely in the terms of wages. There should be no maximum or minimum benefits, but all from directors to door-keepers should be benefited by the same plan. One scale of premiums and a corresponding one for benefits, both a percentage of wages. Loss of earning power from industrial injuries is only one, and a minor, cause of loss of earning power. Disease and death must inevitably impair the earning power of every worker; industrial injuries that of a very few. If there are sound economic reasons for compelling an insurance of the one, why not of them all?

Death and
Disease Just
as Important
to Insure
Against as
Accidents

NOTE.--Messrs. Cheney Brothers will furnish complete copies of the constitution and by-laws of the Mutual Benefit Association in operation at their works, to persons interested. Copies may be had from the National Association of Manufacturers, 30 Church Street, New York City.

FIGURE 131



The General Electric Company's Works at West Lynn, Mass., Etc.

MUTUAL INSURANCE PLAN OF THE GENERAL ELECTRIC
COMPANY'S EMPLOYEES, AT WEST LYNN, MASS.

By MAGNUS W. ALEXANDER

The spirit of the age is prompting the managers of industrial enterprises to appreciate with increasing insight the human phase of their problem. Before the factory method became an established part of our industrial system, the master concerned himself with the well-being of his men. When large groups of employees, however, came under the management of a single employer or a corporation, master and men in their personal relations began to drift apart. Of late the care of the employees is again attracting the attention of our industrial managers, who, on an enlarged basis, and with due consideration to the changed social and industrial conditions, are in many ways endeavoring to increase the well-being and contentment of their employees. The philosophy involved in this new effort, however, eliminates the old paternalistic idea of taking care of the employees, and substitutes the modern view of stimulating and assisting employees to take care of themselves.

No Paternal-
ism; Promotion
of Self-Help
Instead

It was in line with this thought that the officials of the General Electric Company at West Lynn, Mass., some eight years ago, considered the establishment of a mutual benefit association. Such an organization, they believed, would, if properly constituted and managed, result in physical and moral benefit not only to the employees, but to the company as well. The idea of a mutual benefit association among employees is neither new nor novel; yet the Association at the Lynn works merits attention on account of its new and novel features, which, during a period of eight years, have proved their value.

**A Question of
Management****Some Draw-
backs of Ordinary Mutual
Benefit Associations****Association
Made up
of Small
Self-Governing
Bodies of
Workers**

Before the Company started the plan it investigated existing organizations of a similar character, for the purpose of ascertaining the causes of the partial or total failure of some of them, and the reasons for the ineffectiveness of the many in developing their full potentialities. As a result of this investigation, it was found that certain features tended to operate against the complete success of a mutual benefit association. It seemed clear that whenever the employer or his agents take, by statute, a prominent part in the management of such an organization, the workmen themselves not only fail to assume the responsibilities for the proper administration of the funds, but usually lose genuine interest in the Association, and finally look upon the whole matter with a suspicion which, though unfounded, is not unnatural. On the other hand, it must be borne in mind that a large organization presents an administrative problem that cannot easily be dealt with by the employees alone, and of necessity, therefore, calls for active participation in the management by the employer. Yet, when the Association becomes so large as to require the full service of one or more officials, the members look with disfavor upon the use of part of their contributions for the payment of salaries for these officials. Even though the employer assumes such payments, this feeling of discontent is not wholly overcome. Finally, the accumulation of large funds in the treasury of an Association accentuates the belief of the individual member that in case of discontinuance with the Company he should not lose his equity right in these funds—he forgets that his small contribution can entitle him only to insurance protection of a limited time, for which he pays his premium in advance.

When these deficiencies became understood, certain ideas suggested themselves as fundamental for a successful administration of a large mutual benefit association. They are:

1. Sub-division of the Association into small, self-acting and self-administering, though closely connected, bodies.
2. Management of these sub-divisions by the members themselves, with a general supervision of all by a representative of the Company,

to keep the machinery in proper working order, and at the same time, act as the connecting link between the Association and the Company.

3. Limitation of the size of trust funds in the treasuries to such amounts as would, under ordinary circumstances, seem sufficient for the payment of all guaranteed benefits.

4. Utilization of all or very nearly all contributed moneys for the purposes for which they were contributed—sickness, accident and life insurance.

5. Simplicity of administration in order that every member may fully understand his own obligations and rights and those of all others connected with the Association.

While these principles can be worked out in many ways, local conditions and available personnel necessarily being influencing factors, any plan, I believe, will prove efficacious if it is designed: to offer employes the cheapest insurance consistent with sound and safe management against disability from sickness or accident, and death; and to assist in the development of such relations between employer and employes as will tend to increase their mutual loyalty, and consequently bring about increased efficiency and contentment.

Insurance
Must be Inexpensive and Promote Relations Between Employer and Employees

The correctness of the first assumption will be readily accepted by all. The second, however, usually receives no open recognition; but to my mind it should be clearly enunciated in order to eliminate misunderstanding and distrust on the part of the employes. Inasmuch as it is one of the functions of good management to create a body of efficient and contented employes, every proper scheme to this end is justified and will justify itself by a clear statement of the premises on which it rests.

In this spirit the constitution and by-laws of the Thomson-Houston Mutual Benefit Association—named after the then existing Thomson-Houston Company, but now called the General Electric Company—were worked out, and the Association was organized on August 9, 1902. Though several changes have since been made in the constitution and by-laws, the essential features have remained unaltered.

Organized 9 Years Ago; Essential Features Remain Unchanged

Divided into
Sections of
Not More than
150 Members
Each

The constitution provides for an Association, which shall consist of individual Sections of not more than 150 employees each. Each Section has its own administrative body and treasury, and operates independently of, and yet interdependently with, all other Sections of the Association, under the common constitution and by-laws. The membership of each Section is, so far as practicable, recruited from a department of the factory, and transfers to other Sections are made possible whenever members are transferred to other departments for business reasons. When necessary, two or more Sections are formed in the same department.

Sectional
Division
Prevents
Fraud
Saves Time
and Expense

The advantages of this sub-division are obvious. This arrangement groups together for mutual aid employees in a department who are acquainted with each other, establishes therefore a community of active interest in each small group and makes the choice of the Board of Directors of each Section more truly an expression of the will of the members than would ordinarily be the case in a large Association. New employees of the department are quickly approached with a request to join, and will be usually attracted to an organization composed of fellow workers in the same department, when they might hesitate to join a large Association of the whole factory. On account of the acquaintanceship among the members of a Section, the genuineness of a disability claim of any member can be readily established, and fraudulent practice easily checked. Moreover, under this arrangement the secretary-treasurer of each Section can collect dues weekly without loss of more than two or three hours, and at the time of the collection can personally inform the members of the conditions of the Section. The payment by the Company of the usual wage to the secretaries during such periods is neither an undue financial burden on the employer, nor is it subject to the same criticism that was made in reference to officials paid for their full time. Finally, a division of the whole Association into small Sections gives the Company an opportunity to come into closer touch with the individual members than would otherwise be the case.

Each Section solicits its own membership, collects its own dues, and compensates for disabilities from sickness or accident of its own members. All Sections, however, have pooled their death risks so as to distribute this more expensive risk over a large membership. To this end a fund is maintained by monthly assessments on the various Sections, and from it all payments for death benefits for deceased members of the whole Association are made. The chairmen of the Sections form the committee in charge of the Fund, and their prerogatives extend so far as to permit the granting of extra disability benefits beyond those which each Section may give under the constitution and by-laws. Requests for emergency benefits are referred to the committee by the secretary of the Section whose member is to receive the advantage, and are then promptly transmitted to an investigating board of three. This investigation forms the basis of action by the whole committee, which may grant a loan, give a lump sum or weekly benefits in addition to those guaranteed by the Section, or assume the expenses for special medical treatment and other necessities of life.

Death Risks
Are Pooled

Powers of
Death Fund
Committee

While this arrangement gives a much desired flexibility to the scheme of granting benefits, it safeguards itself in that the representative of each Section serving on the committee naturally scrutinizes the claims made by other Sections. This exercise of care is still further fostered, and an economic administration of the Fund assured, by the provision which suspends assessments on the various Sections whenever the amount in the treasury reaches \$2,000, and resumes monthly collections only when, by death and emergency payments, the treasury is reduced to \$1,000. Experience has shown that a floating treasury with a \$2,000 maximum limit is sufficient to meet all ordinary payments. In order, however, to carry still further the aim of minimizing contributions by the Sections to the Death and Emergency Benefit Fund, the committee of the latter arranges for and assumes charge of the social activities of the Association, the proceeds of which are turned into the general fund. At the same

Fund Kept
Between \$1,000
and \$2,000

time, the infusion of a wholesome social spirit into the Association produces beneficial results.

Funds of
Each Section
Vary Between
\$200 and \$300

The same policy or economy is also applied to each individual Section, which, under the constitution and by-laws is directed to discontinue the collection of weekly dues from its members as soon as its treasury contains \$300 or more, and to call for dues again when the payment of disability benefits, assessments to the General Fund, and other expenses have reduced the balance in the treasury to \$200. The desire for an economical administration in each Section stimulates the effort to discontinue general assessments by economy in the Emergency and Death Benefit Fund, and to compensate only for just disability claims when the same are supported by an investigation of the visiting committee, or by other evidence. In each case, unless the disabled member is so far removed from Lynn as to make a personal investigation by a visiting committee impracticable, every claim for disability benefits is investigated weekly by a visiting committee, composed of members of the claimant's Section. The tendency for economy is still further promoted by a wholesome rivalry between the different Sections, each of which desires to afford to its members the cheapest insurance through frequent suspension of the payment of dues.

Only
Legitimate
Disability
Claims
Granted

Average
Lost to Each
Member

In this way members of many Sections have been insured by paying weekly dues during a part of the year only. While the constitution and by-laws provide for weekly dues of 10 cents during the periods of collection, statistics show that the average dues per year per member amount to not more than \$4.00, or about 8 cents per week. In return for this small contribution, the members secure a life insurance of \$100, and a disability insurance of \$6 per week for male, and \$5 per week for female members, for a total period of not more than 14 weeks in each consecutive 12 months; and, furthermore, they are assured of additional emergency benefits when a claim for such seems justified in the judgment of the general committee. Thoughtful consideration will readily prove that it is better for all concerned to limit the statutory obligations for disability benefits

to a relatively short period, and to transfer further obligations to the Emergency and Death Benefit Fund, where each case can be dealt with according to its particular needs and in a more liberal manner.

Although the constitution and by-laws provide for a sub-division of the whole Association into small bodies, the latter are at the same time placed on the same basis of operation, and are again brought into close correlation through the Emergency and Death Benefit Fund, through social activities involving the whole Association, and, finally, through the general chairman. The latter, who is the only official of the Association and the chairman of the general fund, is appointed by the Company, but with this selection the statutory influence of the Company ceases. The functions of the general chairman are to guard the interests of the whole Association, to stimulate the various officers and committees, and to keep all Sections within the bounds of constitutional limitation. Though he is not vested with any executive authority, save that which a Section may delegate to him from time to time, his real power lies in the personal influence which he may be able to exert; and this influence will be strengthened and enlarged to the degree to which he will keep it clearly before all members that his counsel and suggestions are only of an advisory nature, and do not need to be accepted by the Sections unless their contrary action may conflict with the provisions of the constitution and by-laws. The Emergency and Death Benefit Fund Committee offers to the general chairman an excellent opportunity to discuss the welfare of the Association as a whole, and of the individual Sections, and to shape the thought of the chairmen of the various Sections, through whom his influence may be brought home to the membership at large. Finally, holding his finger on the pulse of the membership on the one side, and having the ear of the Company on the other side, the general chairman can work to the benefit and advantage of both interests, and he will fill this dual position so much the better the more fairly and impartially he deals with both sides.

During eight years as general chairman of the Association, my advice has been asked in hundreds of cases, either as to an interpre-

General Chairman Appointed by Company Acts in Advisory Capacity to Association

Stands Between Company and Members of Different Sections

Liberality is
the Motto in
Dealing With
Disability and
Death Benefit
Claims

tation of the constitution and by-laws, or to the extent to which liberality and leniency might properly be carried in individual cases.

In regard to the latter point, I have always advocated that inasmuch as the Association was formed primarily for mutual help in favor of those in distress, no claim of a disabled member nor of the heirs of the deceased should be refused, unless the invalidity of the claim or its fraudulent character can be shown conclusively; and, further, I have maintained that it is better, with the limited funds on hand, to give a little to many rather than to give much to a few. In regard to the interpretation of the constitution and by-laws, on the other hand, my advice has always been to follow the spirit of the constitution rather than the strict letter of its provisions; and I have pointed out again and again the oft-recurring phrase in the Constitution which makes the decision of the Board of Directors in a Section final and conclusive as to proof of alleged facts. At this moment I can hardly recall a single instance in which a Section, or the Association as a whole, deliberately disregarded my advice, and I attribute this condition to the belief that the employees, because they realized their own power in the premises, proceeded naturally with care and were consequently willing and anxious to seek and take counsel. To make the members of the Association still more conservative and deliberate in the disbursements of the funds, I have taken every opportunity to remind them of the fact that they themselves are paying for all benefits out of their weekly dues, without any contribution on the part of the Company, and that, therefore, the whole responsibility for and duty of maintaining the Association in good condition and on a sound financial basis, must rest squarely on the shoulders of the members themselves. It must not be inferred from this statement, however, that the General Electric Company does not take an adequate financial interest in the Association, for the Company bears the whole administrative expense, which includes the payment of wages to the secretaries for the time consumed in collecting dues, and to members of the Board of Directors when in attendance at monthly or special meetings. The Company has repeatedly expressed

Funds Are
Administered
Carefully, Be-
ing Raised
Entirely by
he Workers
Themselves

its willingness and desire to contribute to the funds of the Association, but such offers have always been declined by me with thanks.

Company's Aid
Not Required

In doing this I believe I have acted in accordance with the wishes of the members at large, whose natural pride has prompted the desire to maintain their own organization for their own direct benefit and by their own efforts, as long as this can be done without any outside assistance.

A recent extension of the scope of work of the Association is meeting with much approval. Heretofore a disabled member was adequately taken care of through benefits paid by his Section, and, where necessary, through emergency benefits from the general fund. Members in good health, however, could not obtain any financial assistance from the Association, although they might be much in need of such assistance, especially after a prolonged period of disability. It was, therefore, decided to establish the "Loan Fund of the T. H. M. B. Association," which shall, under proper regulations and restrictions, grant temporary loans to worthy applicants. Accordingly, it was arranged to divert \$1,000 of the proceeds of the next entertainments of the Association to the Loan Fund, which amount may be increased at some future time upon proper authority of the Emergency Fund Committee. The Loan Fund has been placed in charge of a Board of three Trustees, with the General Chairman as Chairman and Treasurer, and the two other Trustees selected by and from the members of the Emergency Fund Committee.

Special Loan
Fund Grants
Temporary
Loans to
Worthy
Members

Any member of the Association in good standing who has been a member for at least one year, shall be entitled to a temporary loan, which shall be paid back without interest in such weekly installments, by order on the Paymaster, as the Board of Trustees may decide. A member receiving a loan must, however, agree that in case of his death prior to the cancellation of the loan, the then unpaid amount of the loan shall be deducted from the death benefit of \$100 due him from the Association. In specially needy cases, of course, where the heirs of the deceased should receive the full amount of \$100, it will be within the province of the Emergency Fund Com-

Association
Fully
Protected
Against Loss

mittee to grant an emergency death benefit equal to the amount withdrawn for the cancellation of the loan. The Loan Fund is therefore protected fully in regard to members who might die before the cancellation of the loan and those who remain in the service of the Company. Only when members leave the service of the Company before having repaid the loans granted to them, is the Loan Fund in danger of loss; yet the number of such instances can be minimized by proper care on the part of the Board of Trustees in investigating the requests for loans.

**Membership
Increased from
100 to 5000
in Eight Years**

The Thomson-Houston Mutual Benefit Association was founded eight years ago with one Section and 100 members; during the following years the membership increased steadily, except during the year 1907-8, when business depression necessitated the suspension of many employees. On October 1, 1910, the Association could boast of 4,785 members distributed over 33 Sections, and since that time the membership has been further augmented, and today includes fully 5,000 employees. This represents a very gratifying proportion of the total number of employees,—about 10,000,—considering the always present floating element among employees who have no desire to join such an organization, and the rather large number of those already insured against disability and death through fraternal organizations or insurance companies. Furthermore, it should be remembered that the Lynn works employ nearly 2,000 working girls who, as a class, are not educated up to the value of insurance and are not trained for co-operative effort. The influence of the Association will, no doubt, make itself felt more and more as time goes on, and it is hoped that eventually most of the employees will be included in its membership.

**Association
Financially
Sound**

Should we desire to measure the success of the Association, we would naturally turn to figures as representing the financial benefits distributed among the members. Thus, we find that the Association disbursed during the year which ended on October 1, 1910, \$17,459.65, of which \$14,163.80 were paid for disability benefits to 690 beneficiaries, \$495.85 for emergency benefits, and \$2,800 for death benefits to the

legal heirs of 28 deceased members; yet the treasuries of the Association contained \$8,502.58 of unexpended moneys when the new fiscal year opened. The financial value of the mutual insurance plan, however, is still better illustrated by the distribution of \$92,962.35 during the eight years of the Association's existence, of which \$77,176 were paid for disability benefits to 2,862 beneficiaries, \$1,139.85 for emergency benefits, and \$14,646.50 for death benefits to the legal heirs of 149 deceased members. This is indeed a splendid tribute to the usefulness of the Association, and its significance lies in the fact that this large sum of money was contributed entirely by the employees themselves, who willingly paid over their 10-cent pieces week by week in order that they might thereby assist their more unfortunate co-workers, and, at the same time, make some provision for themselves should periods of distress befall them.

These figures, big as they are, however, reveal only one side of the picture; the other side has to do with the spirit of fellowship which has grown up among the members of the Association, and with the friendly relations which have been fostered between the Association as a whole and the Company. This value should not be underrated.

Relations
Between
Company and
Employees
Improved

Many plans have been suggested for an extension of the scope and usefulness of the Association, and there is well-grounded hope that some of these will be carried into effect before long. One of the plans advocates the purchase of a suitable farm by the Association, which would serve as a home and outdoor working place for convalescent members, and also as a vacation resort; it is hoped at the same time that, with scientific farming and the sale of the farm products to the factory restaurant of the Lynn works, the farm may also yield an additional revenue to the Association.

Another plan contemplates the establishment of lecture courses, through which the members may be afforded the pleasure of increased knowledge on interesting subjects of timely importance, and receive instruction in first aid treatment of injured persons, the use of safety appliances, and the prevention of accidents.

Association's
Scope to be
Extended

Association
Governed
Like a
Democracy

The Thomson-Houston Mutual Benefit Association at West Lynn, Mass., represents truly a democracy—a government of the members, by the members, and for the members. Not unlike the United States of America (if such presumptuous comparison may be permitted), the Association is composed of individual self-governing Sections, each bearing the cost of its own administration and being supported for this purpose by taxation of its own members. All Sections are operating under the constitution of the Association, and the interpretation of the provisions of the constitution and the power of enforcing its observance by all Sections have been lodged with a central department, that of the general chairman. Finally, as the individual states of the Union have delegated to the Federal government certain functions, like the conduct of the postal system, so have the Sections delegated to the Association as a whole the payment of death benefits and emergency benefits, as well as other matters that can better be attended to by the whole Association than by individual Sections.

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